

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

TOTAL PETROCHEMICALS USA, INC.

Complainant,

v.

**CSX TRANSPORTATION, INC.; CAROLINA
PIEDMONT DIVISION; GEORGIA
WOODLANDS RAILROAD, LLC;
MADISON RAILROAD; MOHAWK,
ADIRONDACK & NORTHERN RAILROAD
CORP.; NASHVILLE AND EASTERN
RAILROAD CORP.; NEW HOPE &
IVYLAND RAILROAD; PIONEER VALLEY
RAILROAD; R.J. CORMAN RAILROAD
COMPANY (MEMPHIS); SEMINOLE
GULF RAILWAY L.P.; SEQUATCHIE
VALLEY RAILROAD COMPANY; AND
SOUTH BRANCH VALLEY RAILROAD**

Defendants.

Docket No. NOR-42121

**ENTERED
Office of Proceedings**

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**Part of
Public Record**



228251

SECOND MOTION TO COMPEL

TOTAL PETROCHEMICALS USA, INC. ("TPI"), pursuant to 49 CFR § 1114.31, submits this Motion to Compel ("Motion"), which respectfully requests the Surface Transportation Board ("Board" or "STB") to issue an order compelling CSX Transportation, Inc. ("CSXT") to fully respond to certain discovery requests, as more fully described herein.

I. BACKGROUND

TPI filed its Complaint in this proceeding on May 3, 2010. The Complaint alleges that CSXT has established unreasonable and unlawful common carrier rates for the rail transportation

of polypropylene, polyethylene, polystyrene, styrene, and aromatics.¹ TPI brought its case under the stand-alone cost (“SAC”) constraint of the Coal Rate Guidelines, Nationwide, 1 I.C.C.2d 520 (1985). Unlike virtually all recent SAC cases, TPI is not a coal shipper with unit trains repeatedly shuttling between the same origin and same destination; instead, TPI is a carload shipper that tenders rail cars at multiple origins that are interchanged with CSXT at several gateways for transportation over 105 separate lanes at issue in this case. As such, this case, and the discovery necessary to properly prepare evidentiary filings, is much larger in scope than the coal SAC cases typically adjudicated by the Board.

On May 17, 2010, TPI served its First Requests for Admission, Interrogatories, and Requests for Production of Documents. This first set of discovery contained the vast majority of TPI’s discovery requests. Additional discovery requests were served on CSXT on May 28, July 16, September 9, September 20, October 6, and October 11.² The parties have conferred frequently regarding discovery over the past several months, including a face-to-face meeting on August 10, 2010, in an attempt to facilitate discovery in this proceeding.

CSXT has propounded objections to almost every single discovery request posed by TPI. After stating most of these objections, however, CSXT frequently has declared that, subject to and without waiving its objections, CSXT will produce non-privileged, responsive documents in its possession, to the extent they can be located in a reasonable search. This has left TPI in the

¹ The Complaint was subsequently amended on July 26, 2010 and October 4, 2010. This Motion to Compel is directed only at CSXT because the Board has not yet decided TPI’s Motion for Leave to File Second Amended Complaint, and the defendants added by that Complaint have declined to respond to any discovery requests at least until the Board grants TPI’s Motion for Leave.

² Although CSXT attempts to portray these as extensive and burdensome requests, TPI’s Second through Seventh Discovery Requests were much shorter than its First Discovery Requests, often with no more than 1-2 requests posed in follow-up to specific issues that arose during the course of discovery.

position of having to “wait and see” what CSXT actually produces before ascertaining whether a motion to compel is necessary. Furthermore, due to the volume and complexity of discovery required by this case, TPI has required time to review the information produced by CSXT and has engaged CSXT in extensive follow-up correspondence regarding missing or incomplete information.

The discovery process has been further complicated by the fact that CSXT is continuing to produce information to TPI even now, over a month after the October 15, 2010, close of discovery in the procedural schedule for this proceeding, without providing any clear indication as to when its production will be completed. This has prevented TPI from knowing whether CSXT’s incomplete responses to many discovery requests are due to objections or whether CSXT still intends to provide responses.

TPI has identified the following discovery requests to which it appears that CSXT will not fully respond based upon its objections: Requests for Production (“RFP”) Nos. 43, 70, 105, 129, 134, 135, 148, 149, 158, 162, and 163.³ TPI has made additional efforts to obtain complete discovery responses from CSXT in letters dated October 8, 2010, and October 27, 2010, but this effort has been largely unsuccessful as to these discovery requests. In correspondence dated October 14, 2010, and November 4, 2010, CSXT made some effort to respond to TPI’s letters but also indicated that many requested documents would not be produced.

Given CSXT’s ongoing production, there remains the possibility that CSXT may yet be planning to produce documents responsive to the discovery requests encompassed by this Motion. However, because TPI must prepare its Opening Evidence for filing on February 16,

³ TPI continues to work with CSXT to obtain complete responses to various other discovery requests that are not included in this Motion to Compel. Because TPI believes that the issues concerning those requests are likely to be resolved, it has chosen not to pursue them in this Motion, but reserves the right to do so if this belief proves inaccurate.

2011, this never-ending process of waiting for responsive documents cannot continue. In the event that CSXT completes production in response to one or more of the RFPs covered by this Motion, then the Motion will become moot as to those RFPs. Because the clock is ticking on the due date for TPI's Opening Evidence, TPI has no other option but to file this Motion to Compel at this time.⁴

II. LEGAL STANDARD

Since the Interstate Commerce Commission ("ICC") adopted Constrained Market Pricing ("CMP") in the Coal Rate Guidelines, both the ICC and the Board have recognized the need for broad discovery by shippers and have granted such discovery. 1 ICC2d at 548 ("We recognize that shippers may require substantial discovery to litigate a case under CMP, and we are prepared to make that discovery available to them."). See also Procedures to Expedite Resolution of Rail Rate Challenges to be Considered Under the Stand-Alone Cost Methodology, STB Ex Parte No. 638, slip op. at 4 (served Apr. 3, 2003) ("shippers need substantial discovery to put together a SAC presentation"). The Board's Rules of Practice promote this policy by permitting "discovery...regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding." 49 CFR § 1114.21(a).

The rules governing discovery in Board proceedings are modeled on the discovery rules contained in the Federal Rules of Civil Procedure. Simplified Standards for Rail Rate Cases, STB Ex Parte No. 646 (Sub-No. 1), slip op. at 68-69 (served Sept. 5, 2007); Potomac Electric Power Company v. CSX Transportation, Inc., STB Docket No. 41989, slip op. at 1 (n.5) (served

⁴ Under 49 CFR § 1114.31(a), a motion to compel must generally be filed within ten days of the deadline for the opposing party to respond. However, in light of the lengthy and on-going period of production by both parties, the need to review and evaluate documents in order to determine their responsiveness, and a desire to facilitate negotiated resolutions to discovery disputes, the parties agreed to waive the ten-day requirement.

May 14, 1997); Westinghouse Electric Corp. v. The Alton & Southern Railway, 1 ICC2d 182, 185-86 (1984). As such, an objecting party “must make a particular and specific demonstration of fact and cannot rely on simple conclusory assertions about the difficulty of complying with a discovery request.” Coker v. Duke & Company, 177 F.R.D. 682, 686 (M.D. Ala. 1998). See also Arizona Electric Power Cooperative, Inc. v. The Burlington Northern and Santa Fe Railway Company and Union Pacific Railroad Company, STB Docket No. 42058, slip op. at 4 (served Sept. 11, 2002) (“AEPCO”) (conclusory burden objection found unpersuasive by the Board); McLeod, Alexander, Powel, and Apffel v. Quarles, 894 F.2d 1482, 1485 (5th Cir. 1990) (boilerplate objections to document requests as “overly broad, burdensome, and oppressive” are insufficient). Finally, “boilerplate, generalized responses are not sufficient to satisfy a party’s discovery obligations.” Trailer Bridge, Inc. v. Sea Star Lines, LLC, STB Docket No. WCC-104, slip op. at 8 (served Oct. 27, 2000).

III. ARGUMENT

A. TPI’s Discovery Requests Are Reasonably Tailored to the Size and Scope of the SARR That is Required to Handle the Issue Traffic.

Throughout the discovery process, in correspondence with TPI, CSXT has accused TPI of making excessive discovery demands. TPI has largely ignored those charges in its responses to CSXT as unproductive litigation posturing that would only distract from the core discovery issues. However, in CSXT’s Reply to TPI’s “First Motion to Compel,” which CSXT filed on November 15, 2010, CSXT repeats these charges, this time formally to the Board, by accusing TPI of making “indiscriminately sweeping and oppressively burdensome discovery demands that often have little to no relationship to the development of relevant evidence in a Stand Alone Cost proceeding” and posing discovery requests that “are vastly broader and more burdensome than

those posed by the complainants in any previous case in which CSXT has been involved.”⁵ Nov. 15 CSX Reply, pp. 4-5. TPI believes that CSXT will make a similar argument in response to this Motion to Compel, and strongly believes that such a charge fundamentally misconceives the circumstances of this case and incorrectly construes the law.

It should come as no surprise to CSXT or the Board that this proceeding requires broader discovery than prior SAC cases. This is because a stand-alone railroad (“SARR”) in this proceeding must replicate a much larger portion of CSXT’s system in order to handle the issue traffic, compared to the discovery typically required in coal cases, because TPI’s carload traffic moves over CSXT from multiple interchange points to more than 100 separate customer locations. This stands in stark contrast to coal cases where there typically is a single mine, or nearby cluster of mines, from which unit trains shuttle back and forth to a single power plant. The Board has recognized that, even in coal cases, “shippers may require substantial discovery to litigate a case under CMP.” Coal Rate Guidelines at 548. That need is magnified in non-coal cases, such as this one, where the SARR covers a much more extensive geographic area and handles coal, intermodal, and general freight traffic.

⁵ CSXT provided four examples of TPI’s discovery extending beyond the scope of properly discoverable evidence. Notably, only one of those examples is the subject of this Motion, RFP No. 148, which TPI addresses herein. A second example is RFP No. 152, in which TPI requested access to certain information in the record in Docket NOR-42110, Seminole Elec. Power Coop. v. CSX Transportation, Inc. TPI requested this information because it believed that would ease the discovery burdens upon both parties to the extent that the TPI SARR would overlap the Seminole SARR. Instead of producing much of the same information in both cases, CSXT would only have had to provide its consent to use information previously produced. TPI narrowed the scope of RFP 152 in response to various CSXT objections. But once CSXT made clear that its objections were absolute, TPI did not pursue the matter further. Rather than being “indiscriminately sweeping and oppressively burdensome,” RFP 152 was an attempt by TPI to mitigate any discovery burden.

The Board repeatedly has declared that CMP is the most accurate, and thus the preferred, standard for determining the reasonableness of rail rates.⁶ Because of this preference, the Board has imposed caps upon the relief available under its Simplified-SAC and Three-Benchmark simplified standards, in order to encourage shippers to use CMP whenever it is best suited for the magnitude of the dispute. Simplified Standards, at 29. Having expressed its strong preference for CMP and adopted limits upon non-CMP remedies, the Board should not deny TPI the discovery it needs to prepare its CMP-SAC evidence because the scope of the SARR required in this case is and must be broader than any prior SAC proceeding. The Board's discovery rules in non-coal cases must be construed to permit the complainant to make its case under the Board's large case standards if the Board's rules are to provide a meaningful regulatory remedy for non-coal shippers.

B. TPI has a Real and Practical Need for the Requested Information.

In this section, TPI describes each of the discovery requests to which CSXT's response has been incomplete. Additionally, TPI shows why the Board should compel CSXT to produce the requested information and/or documents.

RFP No. 43

Request for Production 43 seeks studies or analyses that model and evaluate operations over all or a portion of the CSXT system using the Rail Traffic Controller ("RTC") Model during the past three years. See Exhibit 1 for the full text of RFP 43. Subpart (c) of RFP 43 requests all

⁶ See, e.g., Ex Parte No. 646 (Sub-No. 1), Simplified Standards for Rail Rate Cases, slip op. at 13 (served Sept. 5, 2007) ("CMP, with its SAC constraint, is the most accurate procedure available for determining the reasonableness of rail rates where there is an absence of effective competition.") ("Simplified Standards"); Ex Parte No. 646 (Sub-No. 1), Simplified Standards for Rail Rate Cases, slip op. at 9, 11 (served July 28, 2006); Rate Guidelines—Non-Coal Proceedings, 1 S.T.B. 1004, 1021 (1996) ("CMP provides the only economically precise measure of rate reasonableness and therefore must be used wherever possible."); Ex Parte No. 347 (Sub No. 2), Rate Guidelines—Non-Coal Proceedings, 1987 ICC LEXIS 309, at *2 (served March 23, 1987).

electronic output files generated by the RTC model for each study or analysis. In its initial written response, CSXT implicitly admitted the discoverability of the requested RTC information, merely objecting “to the extent” the RTC models (1) were funded or are owned by third parties; or (2) concern passenger operations. See Exhibit 1 for CSXT’s response. Otherwise, CSXT said it would produce a list of RTC studies from which TPI could select “a reasonable number for production.” Id. Notably, CSXT did not object to producing the information sought in subpart (c).

TPI reiterated and clarified RFP 43 in a letter dated July 16, 2010. See Exhibit 2. In response to the July 16th letter, CSXT provided a brief, general letter that did not specifically mention RFP 43. See Exhibit 3. The parties briefly discussed RFP 43 at their discovery conference on August 10th, but, again, CSXT did not object to producing the information in subpart (c). As discovery continued, CSXT produced responsive RTC studies but failed to include the output files requested in subpart (c). In its October 8th letter, TPI highlighted CSXT’s omission of the output files and requested that CSXT complete its response. See Exhibit 4. In response to this letter, CSXT for the first time stated that it would not be responding to subpart (c), despite the fact that nearly five months had passed from the date that RFP 43 was initially served on CSXT. See Exhibit 5 (CSXT letter October 14, 2010).

CSXT’s rationale for the failure to respond to (c) is that TPI “can generate output files by running its RTC model with the data CSXT has produced.” This is an insufficient response and does not even rise to the level of an objection. With RFP 43(c), TPI seeks “all electronic files generated as output from the RTC model for each study or analysis” conducted by CSXT. Merely stating that TPI can run the model, and obtain its own output files, is not responsive. TPI is not seeking its own output files, it is seeking CSXT’s output files. CSXT has suggested that

TPI can or should be able to replicate CSXT's output files by using the RTC, but there is no way for TPI to know whether its output files would match those of CSXT. In any event, it does not matter, because RFP 43(c) seeks the output files from CSXT's RTC modeling studies. Furthermore, CSXT waived any ability to object to RFP 43(c) because CSXT never mentioned its plan to avoid responding to this subpart until October 14, well after the 30-day deadline for objections that applied to TPI's discovery requests.

Operational modeling of the CSXT rail system is clearly relevant to TPI's development of its stand-alone railroad ("SARR"), and the Board has customarily used the RTC model in all recent SAC cases. CSXT has not raised any objection to producing the output files sought by RFP 43(c); it has merely said they will not be produced. It goes without saying that a party does not meet its discovery obligations with generalized responses or failures to respond. Trailer Bridge, slip op. at 8. CSXT should be compelled to respond to RFP 43(c).

RFP No. 163

RFP 163 seeks any RTC files created since January 1, 2000 that model all or a majority of the CSXT system. The need for RFP 163 was prompted by TPI's discovery that CSXT Vice President Stephen Potter had inferred that CSXT had developed a system-wide RTC model in a presentation at the University of Illinois in April 2010, but that such modeling was outside the three-year time frame of RFP 43. See Exhibit 6 at slide 13 (regarding April 2010 presentation by CSXT VP Steven Potter).⁷ To remove uncertainty, TPI specifically described the RTC files to produce in subparts (a) – (q). In response to this RFP, CSXT objected, calling the request

⁷ While Mr. Potter's presentation did not provide specific dates as to when CSXT developed the RTC model, it did indicate that capital expenditures made by CSXT as a result of the model occurred in 2006 and 2007, and thus inferred that the RTC model was developed during or prior to those years.

“duplicative.” CSXT also objected to producing RTC studies more than a decade old.⁸ Apparently referring to RFP 43, CSXT said it had already produced studies “going back three years”, and that there was no justification for production of “outdated studies.” CSXT referred TPI to CSXT’s previous response to RFP 41 (TPI assumes that CSXT meant “RFP 43”), and, finally, stated that CSXT does not possess any RTC studies of a majority or all of the CSXT system: “CSXT’s RTC studies are directed toward specific segments of CSXT’s rail system.” See Exhibit 7 (CSXT’s Oct. 11 response).

TPI explained the importance of RFP 163, and referred to the Stephen Potter presentation, in a letter dated October 27, 2010. See Exhibit 6. In response, CSXT asserted that the April 2010 presentation by CSXT Vice President Potter refers to a 2004 analysis, which only modeled CSXT’s I-65 corridor from Chicago to Jacksonville. See Exhibit 8 (CSXT letter Nov. 4). Despite acknowledging the existence of this RTC model, CSXT has not produced it. Mr. Potter’s recent citation to the Chicago-to-Jacksonville study shows that supposedly “outdated” studies do have current relevance.

Moreover, CSXT’s assertion that an RTC study is “outdated” goes to the weight of the evidence, not to its discoverability. Of course, arguments about reliability or the weight to be given to evidence can be made during the evidentiary phase of a proceeding; they are not proper in response to a discovery request. AEPCO, slip op. at 7; Utility Fuels, Inc. v. Burlington Northern Railroad, No. 39002, 1984 ICC Lexis 407 at *9 (June 29, 1984) (“BN’s arguments that it should not be required to produce the documents because they consist of either simulations or isolated test results, all of which are out of date, go to their substantive or probative weight and not to their admissibility or relevance”); Texas Municipal Power Agency v. The Burlington

⁸ It is not entirely clear if CSXT also objects to producing RTC studies between three and ten years old.

Northern and Santa Fe Railway Company, STB Docket No. 42056, slip op. at 8 (served Feb. 9, 2001).

CSXT cannot refuse to produce information that is otherwise discoverable simply because CSXT disagrees with the date range. E.I. DuPont de Nemours and Company v. CSX Transportation, Inc., STB Docket No. 42099, slip op. at 4 (served Jan. 15, 2008) (“CSXT cannot exclude the production of information based on a cut-off date of its choosing that would have the effect of limiting the information produced to a subset of the actual universe of discoverable information”). The Board should compel CSXT to respond to RFP 163, and such response should include (1) the Chicago-to-Jacksonville modeling mentioned in CSXT’s November 4th letter; (2) the system-wide RTC referenced by Mr. Potter; and (3) all other models covered by RFP 163.

RFP Nos. 70 and 158

RFP Nos. 70 and 158 request documents, studies, reports, and analyses provided to federal or state agencies which describe or discuss the routing, handling, or proposed routing of hazardous materials by CSXT, CSXI, or TRANSFLO. See Exhibits 1 and 9. In its initial written response to both requests, CSXT completely objected to producing anything, justifying its decision by (1) stating that security-sensitive information (“SSI”) could be implicated; (2) finding the requests irrelevant and not reasonably calculated to lead to the discovery of admissible evidence; and (3) calling the requests vague. See Exhibits 1 and 10.

At the parties’ discovery conference on August 10th, CSXT reiterated its SSI objection to these requests, but also stated that handling information had been produced and routing information would be found in its traffic event data. Following further communications between the parties, CSXT steadfastly refused to produce any further responsive information. In its

October 27th letter, TPI specifically requested that CSXT describe whether the scope of its SSI objection would encompass the entirety of CSXT's potential response to these two requests. CSXT's November 4th letter did not respond to this question. See Exhibit 8 (Nov. 4 letter).

CSXT's relevance and vagueness objections are unfounded. The SARR will replicate many of CSXT's routes and, therefore, the federal and state regulations for routing and handling of hazardous materials with which CSXT must comply and the manner in which CSXT does so are relevant to how the SARR will be required to route and handle that same traffic. Just like CSXT does today, the SARR will be required to comply with all applicable federal and state regulations, including regulations related to the handling and routing of hazardous materials. However, the SARR will not have to comply with regulations that CSXT itself does not follow; this would be an impermissible barrier to entry. Production of documents, studies, reports, and analyses provided to federal or state agencies regarding routing, handling, or proposed routing of hazardous materials would enable TPI to ensure it is meeting the same regulatory requirements as CSXT, without having to overcome any barriers to entry that CSXT does not face. Hence, CSXT's assertion that the requests are "outside the scope of appropriate SAC discovery," see Exhibit 9 (CSXT letter Nov. 4), is plainly incorrect. Canadian Pacific Railway Company, et al. – Control – Dakota, Minnesota & Eastern Railroad Corp., et al., STB Docket No. 35081, slip op. at 1 (served March 27, 2008) ("relevance means that the information might be able to affect the outcome of a proceeding").

By limiting the requests to those documents, studies, reports, and analyses provided to federal and state agencies, TPI has purposefully created a clear delineation regarding what is responsive. The requests are not vague.

Finally, whether or not CSXI currently exists is not determinative of whether CSXI-related information is discoverable. To the extent that CSXI engaged in routing or handling of hazardous materials, information sought by RFP 158 is relevant to operations of the SARR, which will also engage in routing and handling of hazardous materials under many of the same circumstances that CSXI operated. Cf. Canadian Pacific, STB Docket No. 35081, slip op. at 1. In short, CSXT should be compelled to respond to this RFP.

RFP No. 105

RFP No. 105 requests various agreements between CSXT, on the one hand, and TDSI, TRANSFLO, and CSX Technology, on the other. See Exhibit 1. Although CSXT has produced agreements regarding the costs that CSXT bills to TDSI, TRANSFLO, and CSX Technology, CSXT has not produced agreements regarding the costs that TDSI, TRANSFLO, and CSX Technology bill to CSXT.⁹ Such agreements are responsive to subparts (b), (c), and (d) of RFP 105. In its October 27th letter, TPI informed CSXT of this gap in the production. See Exhibit 6.

In its initial discovery response, CSXT made no specific objection to producing the agreements sought by RFP 105. See Exhibit 1 (CSXT written response to 1st discovery). Despite the failure to fully respond to subparts (b), (c), and (d), CSXT apparently believes its production is complete. See Exhibit 5 (Oct. 14 letter). Because the SARR is entitled to step into the shoes of CSXT, the SARR must have access to the relationships between CSXT and its affiliated companies. TPI must be able to determine if CSXT's relationships with its affiliates are arms-length, and the SARR must be able to purchase services from those companies at the same prices paid by CSXT. Seminole Electric Cooperative, Inc. v. CSX Transportation, Inc., STB Docket No. 42110 (served Feb. 17, 2009).

⁹ The aggregate of these charges, by affiliated company, are reported by CSXT in its R-1 Annual Report.

The gap in CSXT's production should be corrected. Agreements whereby TDSI, TRANSFLO, and CSX Technology bill CSXT are highly relevant to constructing the SARR, which will step into the shoes of CSXT for a significant amount of traffic. Given the relevance of these agreements, and the lack of an objection, CSXT should be compelled to complete its response to RFP 105.

RFP No. 129

RFP No. 129 is a request for documentation regarding recent construction and rehabilitation projects by CSXT or a third party acting for CSXT which exceeded \$500,000 in cost. See Exhibit 1. Subpart (g) of RFP 129 asks for production of all invoices underlying each authority for expenditure ("AFE") or roadway completion report. In response to this RFP, CSXT objected to the extent a special study would be required, and termed the request overbroad and unduly burdensome. Notwithstanding these objections, CSXT stated that it would produce a list of AFEs, and that TPI could select specific AFEs from that list "for production." See Exhibit 1 (CSXT June 23 response).

CSXT produced two lists; TPI selected AFEs from those lists; and CSXT has produced e-mails, computer screen print outs from its accounting system, aggregated cost estimates, and other miscellaneous documents. However, CSXT has not produced the invoices underlying each AFE or roadway completion report as requested by TPI in subpart (g).

The objections previously mentioned by CSXT are inapplicable to subpart (g). There is no special study involved in CSXT's production of invoices in its possession. Moreover, the request cannot be overly broad or unduly burdensome because it has been dramatically limited in several ways: first, TPI's initial request limited it to projects costing over \$500,000 since January

1, 2007.¹⁰ Second, CSXT further limited the request by stating that a list of AFEs would be produced, from which TPI could select a “reasonable number.” See Exhibit 1 (CSXT June 23 response). At no time since June 23rd has CSXT claimed that TPI has selected an unreasonable number of AFEs. Lastly, CSXT’s generic assertion of “overbroad and unduly burdensome,” without any explanation, is not sufficient to meet its discovery obligations. Coker, 177 F.R.D. at 686; AEPSCO, slip op. at 4; McLeod, 894 F.2d at 1485; Trailer Bridge, slip op. at 8.

In its development of the SARR, TPI will need to determine construction costs. The unit costs for goods and services, as found in the invoices covered by RFP 129(g), are crucial to this determination of construction costs. In light of this clear need, and CSXT’s lack of a sufficient objection, CSXT should be compelled to respond to RFP 129(g).

RFP No. 134

RFP No. 134 requests cost, design, and other information regarding CSXT bridges in certain states that will be traversed by the SARR. See Exhibit 1. CSXT objected that the date range of the RFP was excessive, and also added objections based on special study, burden, and breadth. See Exhibit 1. Nonetheless, CSXT also stated that a list of AFEs would be produced. From this list of AFEs, TPI would be able to select particular bridge projects for detailed review. See Exhibit 1. In response, TPI stated that AFEs, while helpful, would not provide all the information requested in the RFP. See Exhibit 2 (letter of July 16). At the parties’ conference on August 10th, CSXT stated that additional information would be available in a bridge list that would also be provided. Production ensued, and consisted of e-mails, computer screen print-outs from the CSXT accounting system, aggregated cost estimates, and other miscellaneous documents. However, this production did not include all the information sought in the RFP. See

¹⁰ At the discovery conference on August 10, 2010, CSXT agreed to produce a second list of AFEs prior to January 1, 2007. TPI has selected nine AFEs from this second list.

Exhibit 6 (TPI letter of Oct. 27). In a recent letter, CSXT provided no assurance of any further production in response to RFP 134. See Exhibit 8 (CSXT letter of Nov. 4).

The information requested in RFP 134 is very important to TPI's development of the SARR infrastructure because the SARR will replicate the physical infrastructure of CSXT in many places. The objections provided by CSXT are unfounded. First, a date range extending back to 2004 is necessary because it is unlikely that a shorter date range would encompass a wide array of bridge types. Second, the breadth and scale of TPI's request is dictated entirely by the size of the SARR. Third, TPI has accepted CSXT's proposal that limits the number of AFEs that will be produced, and TPI is not requesting that CSXT perform any special studies. Despite these compromises by TPI, the information in subparts (b) and (l) is not found in the AFEs. Likewise, the quantity and cost data for bridge components, as described in subparts (c), (d), and (e), is not included in the AFEs documents produced by CSXT. Finally, CSXT's production does not include the construction documents and contracts for each bridge, as requested in subpart (k). TPI must have the information requested by subparts (b), (c), (d), (e), (k), and (l) in order to adequately determine the cost of SARR construction.

RFP No. 135

RFP No. 135 requests various cost-related information about the centralized traffic control signal system(s) or any other traffic control system used by CSXT. See Exhibit 1. It has followed a discovery pattern similar to that of RFP No. 134, above. While making objections based on special study, burden, and breadth, CSXT also stated that a list of authorities for expenditure ("AFE") would be produced. From this list of AFEs, TPI would be able to select particular projects for detailed review. See Exhibit 1 (CSXT June 23 response). As with RFP 134, TPI stated that AFEs, while helpful, would not provide all the information requested in RFP

135. See Exhibit 2 (letter of July 16). CSXT's production confirmed TPI's position - the AFE information produced did not include all information requested in RFP 135. CSXT's production consisted of emails, computer screen print-outs from its accounting system, aggregated cost estimates, and other miscellaneous documents.

With its October 27th letter, TPI made a final effort to obtain a complete response, but CSXT did not address this RFP in its November 4 reply. CSXT still has not produced the detailed identification of components, quantities, and costs requested by TPI. See Exhibits 6 and 8 (TPI letter Oct. 27, and CSXT letter Nov. 4). RFP 135 also requests that CSXT indicate whether the costs produced included services such as installation, design planning, electrical drops for utilities, and transportation. CSXT has provided neither the detailed costs requested, nor whether the detailed costs included additional services described in the request. Instead, CSXT's production has consisted primarily of aggregated cost information.

Similar to RFP No. 134, the objections provided by CSXT to RFP No. 135 are unfounded. The breadth and scale of TPI's request is dictated entirely by the size of the SARR, TPI has accepted CSXT's proposal that limits the number of AFEs that will be produced, and TPI is not requesting that CSXT perform any special studies. Despite these compromises by TPI, CSXT has largely provided aggregated information that does not include the component-specific cost and quantity information necessary to SARR development. TPI must have the information in order to adequately develop the SARR.

RFP Nos. 148 and 149

With these two requests, TPI seeks CSXT's Positive Train Control ("PTC") Implementation Plan filed with the Federal Railroad Administration ("FRA"), as well as studies, analyses, plans, and estimates developing CSXT's estimated costs to design, install, and maintain

the PTC system described in CSXT's Implementation Plan. See Exhibit 1. CSXT objected to the production of SSI, and stated that responsive documents, with SSI material redacted, would be produced. See Exhibit 1. CSXT also claimed that materials sought by TPI are publicly available. Finally, CSXT objected that the request for studies, analyses, plans, and estimates is overbroad and unduly burdensome. See Exhibit 1.

In response to RFP Nos. 148 and 149, CSXT has produced two redacted versions of its PTC Implementation Plan submitted to the Federal Railroad Administration in July 2010, and two summaries showing highly aggregated costs of implementation. CSXT's SSI redactions include the costs of implementing PTC by location and the timing of such costs. The costs of implementing PTC are highly relevant to development of the SARR, which, like CSXT, will need to abide by all applicable federal and state regulations, including rules related to PTC. Conversely, the SARR will not need to follow regulations that are not imposed on CSXT, as this would be an impermissible barrier to entry. TPI needs access to all of the documents, reports, analyses, and studies that CSXT provided to state and federal agencies in order to ensure that the SARR follows the same PTC requirements as CSXT, no more and no less, without having to overcome any barriers to entry that do not apply to CSXT.

The current information provided by CSXT is insufficient to develop the timing and location of future PTC investments. CSXT will be installing PTC on its lines between 2010 and 2015. As there is no history for developing and installing PTC infrastructure, TPI has no basis on which to develop the scope and timing of PTC costs for the SARR other than CSXT's own data. Therefore, TPI has a compelling need for this information.

CSXT provides little support for its self-designation of PTC cost and location information as SSI. While the exact location of a tank car containing a poisonous-by-inhalation ("PIH")

commodity at a specific time might be SSI, CSXT has not explained how the cost and timing of PTC implementation meets the requirements of 49 CFR Part 1520. Instead, CSXT has made a blanket assertion that all PTC-related information, except for the non-redacted portion of the PTC Implementation Plan, qualifies as SSI. It is noteworthy that the SSI rules do not mention PTC. The FRA only mentioned SSI once in the PTC final rule, and then to caution railroads to narrowly designate confidential information.¹¹ CSXT should justify its self-designation of all non-aggregated PTC-related cost, location and timing information as SSI. Absent a clear explanation for how the cost and timing of PTC implementation meets the requirements of 49 CFR Part 1520, CSXT should produce this information to TPI.

Use of the Highly Confidential designation can protect the confidentiality of this information. AEPCO, slip op. at 5 (“It is well settled that a protective order ensures that confidential, proprietary, or commercially sensitive information may be used solely for the involved proceeding and not for other purposes.”); The Springfield Terminal Railway Company – Petition for Declaratory Order – Reasonableness of Demurrage Charges, STB Docket No. 42108, slip op. at 4 (served June 16, 2010). Moreover, TPI has no other access to this relevant information due to the novelty of the PTC requirement. CSXT should be compelled to produce PTC implementation costs by location, as well as the timing of those costs.

RFP No. 162

RFP No. 162 requests CSXT’s state income tax returns, including all state tax credit worksheets, for 2008 and 2009 for all SARR states. See Exhibit 11. CSXT has objected to the entirety of this request. CSXT claims that it is overbroad, unduly burdensome, and not

¹¹ “FRA strongly encourages submitting parties to request confidential treatment only for those portions of documents that truly justify such treatment (i.e., trade secrets and security sensitive information).” 75 FR 2598, 2640 (Jan. 15, 2010).

reasonably calculated to lead to the discovery of admissible evidence. Furthermore, CSXT says its tax returns are irrelevant and contain commercially sensitive information. See generally Exhibit 7 (CSXT initial written response). Further attempts to engage CSXT regarding RFP 162 have been unsuccessful. See Exhibits 6 and 8 (TPI letter of Oct. 27; CSXT response of Nov. 4).

TPI fails to see how the production of already completed documents can be considered burdensome or overly broad. Furthermore, the state tax returns are clearly relevant to TPI's development of a SARR and, thus, the request is calculated to lead to the discovery of admissible evidence. Tax considerations and expenses are inevitable in the construction and operation of a railroad, and the SARR is entitled to make use of tax provisions that CSXT has used. CSXT claims that the tax returns for 2008 and 2009 are irrelevant because the SARR would not begin operations or file returns until 2010. See Exhibit 8 (CSXT letter Nov. 4). However, the discounted cash flow ("DCF") model used in SAC cases includes the impact of state tax liability for three calendar years prior to the commencement of operations. Hence, the 2008 and 2009 returns are clearly relevant.

Finally, the protective order in this case adequately protects any commercially sensitive information that may be included in CSXT's state tax returns. AEPCO, slip op. at 5; Springfield Terminal, slip op. at 4. The Board should reject CSXT's unfounded objections, and compel CSXT to respond to RFP 162.

IV. THE BOARD SHOULD COMPEL PRODUCTION BY A DATE CERTAIN

As mentioned above, CSXT's production has continued over a month past the close of discovery on October 15th, without any target date for completion.¹² While CSXT may further respond to discovery requests covered by this Motion absent Board action, TPI respectfully

¹² Moreover, TPI has submitted numerous requests for clarification of documents provided by CSXT, and CSXT has yet to respond to several of these requests.

requests that the Board compel CSXT to respond to all of the requests described herein by December 15, 2010, in order to ensure that TPI has sufficient time to review and incorporate the information into its Opening Evidence on February 16, 2011.

Development of SAC evidence is complex and time-consuming, and the prejudice to TPI, as well as the possibility of a delay in the procedural schedule, increases with each day that passes without adequate discovery responses from CSXT. Delay is all the more pernicious for TPI because of the extraordinarily high tariff rates that TPI must pay during the pendency of the case.

Throughout the past 15 years, the Board has stressed the importance of timely processing and resolution of SAC cases. See, e.g., Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings, STB Ex Parte No. 527; Procedures to Expedite Resolution of Rail Rate Challenges to be Considered Under the Stand-Alone Cost Methodology, STB Ex Parte No. 638; Major Issues in Rail Rate Cases, STB Ex Parte No. 657 (Sub-No. 1). Congress has also made it clear that Board adjudications should be expeditious. 49 USC §§ 10101(2) and (15). A deadline for CSXT's production is essential to the expeditious processing of this proceeding.

TPI recognizes that the initial decision on this Motion may be issued by the Director of the Office of Proceedings under 49 CFR § 1104.31(a)(4) and, therefore, TPI also requests that any order from the Director also include a deadline for CSXT's production. In the event that an appeal to the Board takes place under § 1104.31(a)(4), TPI requests that the Board act on such appeal with all reasonable promptness.

V. CONCLUSION

For the afore-mentioned reasons, TPI respectfully requests that the Board compel CSXT to respond to Requests for Production Nos. 43, 70, 105, 129, 134, 135, 148, 149, 158, 162, and 163 by December 15, 2010, as further described herein.

Respectfully submitted,



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November 16, 2010

CERTIFICATE OF SERVICE

I hereby certify that this 16th day of November 2010, I served a copy of the foregoing upon Defendants in the following manner and at the addresses below:

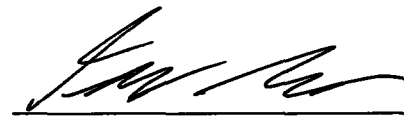
Via hand-delivery to:

G. Paul Moates
Sidley Austin LLP
1501 K Street, NW
Washington, D.C. 20005
Counsel for CSXT

Via first class mail to:

Lamont Jones, General Manager Carolina Piedmont Division 268 E. Main Street Laurens, SC 29360	Cathy S. Hale, Chief Executive Officer Madison Railroad City of Madison Port Authority 1121 W. JPG Woodfill Road #216 Madison, IN 47250
Jeff Collins, General Manager Mohawk, Adirondack & Northern Railroad Corp. 1 Mill Street, Suite 101 Batavia, NY 14020	William J. Drunsic, President Nashville and Eastern Railroad Corp. 514 Knoxville Avenue Lebanon, TN 37087
Bernard M. Reagan, Senior Vice President Seminole Gulf Railway L.P. 4101 Center Point Drive Ft. Myers, FL 39916	Lucinda K. Butler, Director South Branch Valley Railroad 120 Water Plant Drive Moorefield, WV 26836
G.R. Abernathy, President Sequatchie Valley Railroad Company 120 Soulard Square Bridgeport, AL 35740	Paul G. Nichini, President New Hope & Ivyland Railroad 32 West Bridge Street New Hope, PA 18938

Joe Martin, Division Manager R.J. Corman Railroad Company (Memphis) P.O. Box 337 145 East 1st Street Guthrie, KY 42234	Michael L. Rennie, General Manager Pioneer Valley Railroad 100 Springdale Road Westfield, MA 01085
Thomas Burden, General Manager Georgia Woodlands Railroad, LLC 210 Depot Street P.O. Box 549 Washington, GA 30673	



Jeffrey O. Moreno

Exhibit 1

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

TOTAL PETROCHEMICALS USA, INC.

Complainant

v.

CSX TRANSPORTATION, INC.

Defendant

Docket No. NOR 42121

**DEFENDANT'S RESPONSES AND OBJECTIONS TO COMPLAINANT'S FIRST
REQUESTS FOR ADMISSION, INTERROGATORIES, AND REQUESTS FOR
PRODUCTION OF DOCUMENTS**

Pursuant to 49 C.F.R. Part 1114 and other applicable rules and authority, CSX Transportation, Inc. ("CSXT"), through undersigned counsel, responds as follows to Complainant Total Petrochemicals USA, Inc.'s ("TPI") First Requests for Admission, Interrogatories, and Requests for Production of Documents (the "Discovery Requests").

GENERAL OBJECTIONS

CSXT's General Objections, as set forth herein, are to be considered objections to each of the specific interrogatories and document requests (including subparts) that follow. CSXT's objections shall not waive or prejudice any objections that it may later assert.

1. CSXT objects to the gargantuan number and immense scope of TPI's discovery requests, which are vastly overbroad, unduly burdensome, and grossly unreasonable. TPI has posed 709 separate discovery requests including subparts. Indeed, accounting for requests where TPI has demanded separate responses for each Issue Movement or specified short line railroad, TPI has made no fewer than 2155 separate requests! No complainant in a recent SAC case has propounded such broad and extensive discovery. To make matters worse, many of TPI's Discovery Requests have a breathtakingly expansive scope. It claims to only request records for

“SARR States,” but defines SARR States to include 99.7% of the CSXT system in the United States. (The only U.S. State in which CSXT operates that is not one of TPI’s “SARR States” is Connecticut, in which CSXT operates less than 70 miles of track.) And TPI’s Discovery Requests are replete with sweeping, overbroad demands for materials that often have little or no relevance to the subject matter of this case – from demanding that CSXT produce no fewer than thirteen different computer models to insisting on access to the entire highly confidential discovery record in a different case. In short, TPI’s failure to limit its discovery demands to a reasonable scope is abusive and unduly burdensome, and CSXT objects to TPI’s unreasonable and oppressive demands.

2. CSXT objects to any and all definitions and/or instructions to the extent that the definitions and instructions either seek to expand upon or conflict with 49 C.F.R. Part 1114, Subpart B. Further, CSXT objects to these Discovery Requests to the extent that they seek to impose obligations on CSXT that are greater than, or are inconsistent with, those imposed under 49 C.F.R. Part 1114, Subpart B.

3. CSXT objects to each and every Discovery Request to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege, exemption, or protection from discovery or disclosure. In the event that any such information is inadvertently produced or provided, and such information is the proper subject of the attorney-client privilege, the attorney work-product doctrine and/or other applicable privilege, exemption, or protection, such disclosure is not to be construed as a waiver of any of these privileges, exemptions, or protections. CSXT reserves the right to demand that such inadvertently produced privileged information be returned to it and that all copies in TPI’s possession, and that of its counsel, consultants, subsidiaries or other agents, be destroyed.

4. CSXT objects to each and every Discovery Request to the extent that it seeks production of information or data that is not relevant to the subject matter at issue in this proceeding and/or not reasonably calculated to lead to the discovery of admissible evidence.

5. CSXT objects to each and every Discovery Request requesting that CSXT produce "all" responsive information. For those requests to which it is obliged to respond, CSXT will produce such responsive non-privileged information or documentation as it is able to locate or identify in a reasonable search.

6. CSXT objects to each and every Discovery Request to the extent that it would require CSXT to perform a "special study" to derive the requested information.

7. CSXT objects to each and every Discovery Request to the extent that it is: a) overly broad; b) impermissibly vague or ambiguous, and fails to describe with reasonable particularity the information sought; or c) imposes undue burdens that outweigh any probative value the information sought may have in this proceeding.

8. CSXT objects to each and every Discovery Request to the extent that it purports to request information that is already in the possession of TPI. Further, CSXT objects to each and every Discovery Request to the extent that it seeks disclosure of information that is readily available or accessible to TPI.

9. CSXT objects to each and every Discovery Request to the extent that it purports to request information and data that is sensitive security information ("SSI"), classified or otherwise prohibited from disclosure, or documents whose public release could jeopardize the safety of the public and/or CSXT employees. Subject to and without waiving this objection, unless otherwise indicated CSXT will search for and produce non-privileged information or

documents which are not SSI, not classified, not prohibited from disclosure, and whose public release would not jeopardize the safety of the public or of CSXT employees.

10. CSXT objects to TPI's demand that copies of any responsive documents be delivered to the offices of TPI counsel, which is inconsistent with the Board's rule that a party producing documents may do so by making them available for inspection. *See* 49 C.F.R. § 1114.30(a)(1). Several of TPI's requests call for documents or data so voluminous that CSXT will make such documents or data available for inspection by TPI counsel or consultants rather than delivering copies to TPI. In its Specific Objections and Responses CSXT has indicated the requests for which it will make documents available for inspection. CSXT reserves its right to designate additional requests for which it will make documents available for inspection rather than delivering copies.

11. CSXT objects to Definition 44 of the Discovery Requests to the extent that it defines CSXT to include all subsidiaries of CSXT, on the grounds that such definition is overbroad and unduly burdensome. CSXT specifically objects to producing data and information for non-wholly owned subsidiaries and for switching and terminal railroad subsidiaries, on the ground that producing responsive information for these entities, to the extent such information exists, would be unduly burdensome and would have little to no relevance to the issues in this proceeding.

12. CSXT objects to TPI's Definition 50 defining "Document" to the extent it seeks to impose obligations broader than, or inconsistent with, those imposed by 49 C.F.R. Part 1114. CSXT objects to TPI's demand that CSXT produce documents in its "prior possession, custody and control." It is both unreasonable and illogical to demand that CSXT produce documents that are not in its current possession, custody, or control. CSXT further objects to the definition of

“Document” to the extent it seeks information or data that is privileged, protected by the work product doctrine, or otherwise protected, exempted, or excluded from discovery or disclosure by an applicable privilege, protection, rule, or doctrine. In these Responses, CSXT will interpret the term “Document” to exclude any data or information that is protected from discovery or disclosure by such privilege, protection, doctrine, or rule.

13. CSXT objects to TPI’s Definition 75 defining “‘Identify’ when referring to a document” to the extent it seeks to impose obligations or requirements beyond, in addition to, or inconsistent with discovery obligations under 49 C.F.R. Part 1114. CSXT has no duty to search for, gather, and catalog every document possibly implicated by an interrogatory with the multiple pieces of information specified as required by the definition. This definition would impose an undue burden that outweighs any relevance or probative value the information sought may have in this proceeding. CSXT will respond to any interrogatory asking it to “identify” particular documents as if it were a request for production of those documents and respond in accordance with 49 C.F.R. § 1114.30.

14. CSXT objects to TPI’s Definition 119 defining “possession, custody, or control” to the extent it seeks to impose obligations or requirements beyond, in addition to, or inconsistent with CSXT’s discovery obligations under 49 C.F.R. Part 1114.

15. CSXT objects to TPI’s Definition 123 defining “related,” “related to,” and “relating to” on the grounds that such definition is overbroad and unduly burdensome.

16. CSXT objects to Instruction 3(a)(i) to provide the “name and description of the source database or other file” from which computer readable information is provided to TPI. CSXT has no duty to undertake to catalog and document its internal systems as such a request would constitute a “special study,” *see, e.g., Entergy Ark., Inc. v. Union Pac. R.R. Co.*, STB

Docket No. 42104 (May 19, 2008). Moreover, such information would be unduly burdensome to create and is not relevant to any issue in this proceeding, nor is such information necessary to enable TPI to use any information to be provided.

17. CSXT objects to Instruction 3(a)(ii) to provide “[a] description of how the records in the file produced were selected” as seeking information protected by the attorney-client privilege and/or work-product doctrine. Furthermore, such information would be unduly burdensome to create and is not relevant to any issue in this proceeding or necessary to enable TPI to use any information to be provided by CSXT.

18. CSXT objects to Instruction 3(a)(iii) as seeking to impose obligations or requirements beyond, in addition to, or inconsistent with discovery obligations under 49 C.F.R. Part 1114. CSXT has no obligation to undertake to catalog and document its internal systems as such a request would constitute a “special study,” *see, e.g., Entergy Ark., Inc. v. Union Pac. R.R. Co.*, STB Docket No. 42104 (May 19, 2008); such information would be unduly burdensome to create and is not relevant to any issue in this proceeding, nor is such information necessary to enable TPI to use any information to be provided. Moreover, CSXT has no obligation to provide TPI with any “intermediate files” created by CSXT in its effort to provide TPI with responsive information. Production of such files would be duplicative of the information in “final files.” Moreover, any “intermediate files[s]” used to create files produced in this litigation are protected by the work-product doctrine.

19. CSXT objects to Instruction 3(a)(iv) as seeking to impose obligations or requirements beyond, in addition to, or inconsistent with discovery obligations under 49 C.F.R. Part 1114. CSXT further objects to the instruction to produce “[a] relational diagram defining relationships between tables, with all fields. . .” on the grounds that CSXT has no duty to

undertake to catalog and document its internal systems as such a request would constitute a “special study,” *see, e.g., Entergy Ark., Inc. v. Union Pac. R.R. Co.*, STB Docket No. 42104 (May 19, 2008); such information would be unduly burdensome to create and is not relevant to any issue in this proceeding, nor is such information necessary to enable TPI to use any information to be provided.

20. CSXT objects to Instruction 3(b) as seeking to impose obligations or requirements beyond, in addition to, or inconsistent with discovery obligations under 49 C.F.R. Part 1114. CSXT has no duty to undertake to catalog and document all computer-readable information provided to TPI in the unduly complex format specified by TPI. Responsive information provided in computer-readable format will be described to the extent necessary for TPI to use such information.

21. CSXT objects to TPI’s Instructions 4, 7, 12, 13, 14, and 15 to the extent they attempt to impose obligations or requirements beyond, in addition to, or inconsistent with CSXT’s discovery obligations under 49 C.F.R. Part 1114. CSXT’s duties in responding to TPI’s discovery requests are governed by the Board’s rules, and TPI cannot change or expand those duties by propounding “Instructions.”

22. CSXT objects to TPI’s failure to limit its requests to a relevant time period as overbroad and unduly burdensome. TPI seeks information that is not relevant to this proceeding and is not reasonably calculated to lead to the production of admissible evidence. Subject to, and without waiving this objection, unless otherwise indicated, CSXT’s responses will cover the period from 2008 to the filing of the Complaint.

23. CSXT does not concede the relevance, materiality, competency, or admissibility as evidence of documents or information requested in the Discovery Requests. CSXT reserves

its right to object on any ground to the use of the responses herein in this proceeding or in any subsequent appeal, proceeding, action or trial.

SPECIFIC OBJECTIONS AND RESPONSES

In addition to its General Objections (which apply in full to each and every Discovery Request, without further enumeration), below CSXT sets forth Specific Objections and Responses to each Request for Admission, Interrogatory, and Request for Production. CSXT preserves all of its General Objections set forth above, and none of the following Specific Objections shall waive its General Objections. Nor shall any of CSXT's specific objections limit the scope, breadth, generality, or applicability of those General Objections.

I. REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1

Separately for each of the Challenged Rates identified in Exhibits A and B to TPI's Verified Complaint, admit that each such Challenged Rate exceeds 180 percent of the variable costs of providing the transportation to which the Challenged Rates apply.

Response:

CSXT objects to this Request for Admission for the reasons set forth in its General Objections. CSXT also specifically objects to this Request for Admission because it calls for CSXT to perform a special study to assess the variable costs for the 104 Challenged Rates. CSXT also objects because this Request for Admission prematurely and inappropriately demands that CSXT disclose its litigation position before the submission of opening evidence. CSXT further objects to this Request for Admission as calling for a legal conclusion to which no response is necessary. To the extent a response is required, CSXT states that while it appears that most, and perhaps all, of the Challenged Rates may generate an R/VC ratio in excess of 1.8, those ratios cannot be conclusively determined without generating Uniform Rail Costing System ("URCS") costs for each of the movements whose rates are challenged in the Complaint. CSXT

is willing to discuss, and consider amending, this response as appropriate when the necessary calculations have been completed and the time is ripe for a response.

REQUEST FOR ADMISSION NO. 2

Separately for each of the movements identified in Exhibits A and B to TPI's Verified Complaint, admit that CSXT faces no effective rail competition for the transportation of commodities under the Challenged Rates from Origins to Destinations.

Response:

CSXT objects to this Request for Admission for the reasons set forth in its General Objections. CSXT also specifically objects to this Request for Admission because it calls for CSXT to perform a special study to assess rail competition between Origins and Destinations for 104 separate movements. CSXT also objects because this Request for Admission prematurely and inappropriately demands that CSXT disclose its litigation position before the submission of opening evidence. CSXT further objects to this Request for Admission as calling for a legal conclusion to which no response is necessary. To the extent a response is required, CSXT denies Request for Admission No. 2.

REQUEST FOR ADMISSION NO. 3

Separately for each of the movements identified in Exhibits A and B to TPI's Verified Complaint, admit that CSXT faces no effective competition from other surface modes (e.g. truck, barge, pipeline) for the transportation of commodities under the Challenged Rates from Origins to Destinations.

Response:

CSXT objects to this Request for Admission for the reasons set forth in its General Objections. CSXT also specifically objects to this Request for Admission because it calls for CSXT to perform a special study to assess intermodal competition between Origins and Destinations for 104 separate movements. CSXT also objects because this Request for Admission prematurely and inappropriately demands that CSXT disclose its litigation position

before the submission of opening evidence. CSXT further objects to this Request for Admission as calling for a legal conclusion to which no response is necessary. To the extent a response is required, CSXT denies Request for Admission No. 3.

II. INTERROGATORIES

INTERROGATORY NO. 1

If your response to Request for Admission No. 1 was anything other than an unqualified admission, please explain in detail the legal basis for your response, provide the revenue-to-variable cost percentages that CSXT claims the Challenged Rates produce, and identify all documents that support your response.

Response:

CSXT objects to this Interrogatory for the reasons set forth in its General Objections. CSXT also specifically objects to this Interrogatory because it calls for CSXT to perform a special study to assess the variable costs for the Challenged Rates. CSXT also objects because this Interrogatory prematurely and inappropriately demands that CSXT disclose its litigation position before the submission of opening evidence.

INTERROGATORY NO. 2

If your response to Request for Admission No. 2 was anything other than an unqualified admission for each movement in Exhibits A and B to TPI's Verified Complaint, for any such movement for which your response was not an unqualified admission, please identify the specific movement; identify the rail carrier(s) that provide effective rail competition; and describe the effective rail competition that CSXT claims exists for the transportation to which the Challenged Rate applies, the annual volume subject to such competition, and how and why such competition is effective.

Response:

CSXT objects to this Interrogatory for the reasons set forth in its General Objections. CSXT also specifically objects to this Interrogatory because it calls for CSXT to perform a special study to assess the effectiveness of rail competition between Origins and Destinations. CSXT also objects because this Interrogatory prematurely and inappropriately demands that

CSXT disclose its litigation position before the submission of opening evidence. Subject to and without waiving these objections and the General Objections, CSXT responds that it will provide evidence of the effectiveness of rail competition for the transportation to which the Challenged Rates apply at the appropriate time.

INTERROGATORY NO. 3

If your response to Request for Admission No. 3 was anything other than an unqualified admission for each movement in Exhibits A and B to TPI's Verified Complaint for which your response was not an unqualified admission, please identify the specific movement; identify any carriers that CSXT contends provide effective competition; and describe the effective competition from other surface modes that CSXT claims exists for the transportation to which the Challenged Rate applies, the annual volume subject to such competition, and why such competition is effective.

Response:

CSXT objects to this Interrogatory for the reasons set forth in its General Objections.

CSXT also specifically objects to this Interrogatory because it calls for CSXT to perform a special study to assess the effectiveness of intermodal competition between Origins and Destinations. CSXT also objects because this Interrogatory prematurely and inappropriately demands that CSXT disclose its litigation position before the submission of opening evidence. Subject to and without waiving these objections and the General Objections, CSXT responds that it will provide evidence of the effectiveness of intermodal competition for the transportation to which the Challenged Rates apply at the appropriate time.

INTERROGATORY NO. 4

Please identify, by name, title and address, the person(s) who prepared each answer to these Interrogatories and each response to the foregoing Requests for Admissions, and who reviewed and selected the documents to be produced in response to each of the following Requests for Production.

Response:

CSXT specifically objects to this Interrogatory because it calls for the disclosure of privileged and confidential information relating to the preparation of CSXT's responses to TPI's discovery that is protected by the attorney-client privilege and/or the work product doctrine. CSXT further objects to this Interrogatory as unduly burdensome and overbroad to the extent it asks for CSXT to identify each of the many CSXT personnel and departments who must participate in gathering the massive volumes of documents and data that TPI has requested CSXT to produce. Moreover, this Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence. The identity of the CSXT employees, consultants, and attorneys who have participated in CSXT's response to TPI's discovery is irrelevant to matters at issue in this litigation.

INTERROGATORY NO. 5

Please provide a complete description of each TPI movement identified on Exhibits A and B to TPI's Verified Complaint by CSXT from Origin to Destination and from Destination to Origin, including, but not limited to, (a) a description of all transportation-related activities at Origin, at Destination, and at all intermediate stations or other points between Origin and Destination; (b) the route(s) used; (c) the railroads involved in each route; and (d) the miles for each route separated by railroad.

Response:

CSXT specifically objects to this Interrogatory as overbroad and unduly burdensome to the extent it requires a "complete" description and a description of "all transportation-related activities" at Origins, Destinations, and "all intermediate stations or other points between Origin and Destination." CSXT further objects to this Interrogatory to the extent it requires a special study for 104 separate movements that CSXT is not required to conduct. Moreover, CSXT further objects that a number of the origin-destination pairs in the Complaint have not moved any traffic recently, and it is therefore impossible for CSXT to describe "transportation-related

activities,” “route[s] used,” or “railroads involved” for those TPI “movements.” Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce business records or other documents from which the answer to this Interrogatory can be derived or ascertained. *See* 49 C.F.R. § 1114.26(b).

INTERROGATORY NO. 6

Please describe the arrangements between CSXT and each railroad identified in part “f” of the Interrogatory No. 6 regarding all movements handled in whole or in part by CSXT and including, but not limited each railroad identified in part “f” of this Interrogatory No. 6 to:

- a. Whether CSXT sets all rates, fees and surcharges, including the portion of the movement handled by each railroad identified in part “f” of this Interrogatory No. 6, and if not, identify who sets the rates, fees, and surcharges;
- b. Whether the CSXT revenues reported in the traffic and revenue data provided in response to Request for Production No. 20 include or exclude the monies paid to each railroad identified in part “f” of this Interrogatory No. 6 as compensation for its portion of each movement;
- c. Whether a physical interchange of traffic takes place between CSXT and each railroad identified in part “f” of this Interrogatory No. 6, and if so, identify the interchange location(s);
- d. Whether each railroad identified in part “f” of this Interrogatory No. 6 provides its own locomotive power for its portion of each movement or if CSXT power is used; and
- e. Whether each railroad identified in part “f” of this Interrogatory No. 6 provides its own train crew personnel for its portion of each movement or if CSXT train crew personnel are used.
- f. AA, AB, ABS, ACWR, AGR, ALAB, AN, AO, AOR, AR, ASRY, ATN, AVR, BAYL, BB, BLE, BPRR, BRC, BS, BSOR, CAGY, CEIW, CFE, CFWR, CIND, CMPA, CMR, CMSL, CNUR, CNZR, CPDR, CRL, CSO, CSS, CTN, DLWR, EARY, EFRR, EIRC, ESPN, ETL, EVWR, EWR, FCEN, FCR, FCRD, FGLK, FMID, FRR, GFRR, GMRC, GNRR, GRW, GRWR, GSWR, GWRC, HIRR, HRRC, IERR, IHB, ILW, INRD, IORY, ISRR, ISW, JEFW, KBSR, KWT, LAL, LC, LIRC, LRS, MAW, MCER, MGRI, MHWA, MJ, MNBR, MSE, NCIR, NCVA, NCYR, NECR, NERR, NHRR, NOPB, NOW, NWR, NYA, NYSW, ONCT, PAL, PAM, PBR, PBVR, POHC, PVRR, PW, RJCC, RJCM, RJCR, RJCW, RSR, SBVR, SCRF, SCTR, SCXF, SERCORR, SGLR, SLRS, SM, SMW, SOM, SQVR, SRNJ, ST, SWP, TBRY, TNHR, TPW, TSRR, TTIS,

TTR, TYBR, VR, VRR, VRRRC, VTR, WE, WHOE, WSOR, WSS, WTNN, WTRM, WW, WWRC, YARR and YSR.¹

Response:

CSXT specifically objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it requires a description of "arrangements" regarding "all movements" between CSXT and 145 short line railroads pursuant to which CSXT and each of those numerous railroads conduct transportation services. CSXT also objects to the vague, ambiguous, and undefined term "arrangements." CSXT further objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT also objects to part (a) of this Interrogatory calling for "[w]hether CSXT sets all rates, fees and surcharges" as seeking information irrelevant to the development of Stand Alone Cost evidence in this case. Subject to and without waiving these objections and the General Objections, CSXT responds that it will search for and produce business records or other documents from which the answer to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R. § 1114.26(b).

INTERROGATORY NO. 7

Interrogatory No. 7 refers to the CSXT rail yards located in the SARR States.

- a. For each of the yards, identify the type of yard, i.e., electronically controlled hump yard or flat switch yard. Also identify the number of shifts operated at each hump yard, and the average number of cars handled over each hump yard per day;
- b. For each of the yards, describe the yard layout, yard signaling, yard switching, and the yard connection to mainline track;
- c. For each of the yards which are hump yards, identify the average number of hazardous material cars handled at each yard on a daily basis that by-pass the hump;

¹ (Amended to include ARA, CKIN, CUOH, NYLE, OHCR, OMID and RJCL.)

d. For each of the CSXT rail yards, identify the scheduled switch crew assignments on a daily basis (including the name or designation of each assignment) and the respective duties of each assignment, e.g., switching job, bowl job, hump job, industrial job, etc.;

e. For each of the switch assignments identified in response to part d. above, please identify the typical number of switch crew members and the number and type of locomotives assigned to each switch service; and

f. For each of the switch assignments identified in response to part d. above, please state the typical number of hours worked by switch crews in performing their assigned tasks.

g. For each individual industrial switch job identified in response to part d, above, please identify the following information:

- i. The name or designation of each individual industrial switch job;
- ii. The typical number of crew members assigned to each identified industrial switch job;
- iii. Typical number and type of locomotives assigned to each identified industrial switch job;
- iv. The industries served by each identified industrial switch job; and
- v. The frequency of service of each identified industrial switch job.

h. Please identify each of the Local Trains that originate or terminate in each of the yards listed above and for each Local Train please identify the following information:

- i. CSXT's train identification or designation of each Local Train;
- ii. Typical number of crew members assigned to each identified Local Train;
- iii. Typical number of loaded and empty cars assigned to each Local Train;
- iv. Typical trailing length of each identified Local Train;
- v. Typical trailing weight of each identified Local Train;
- vi. Typical number and type of locomotives assigned to each Local Train;
- vii. The route of service for each identified Local Train, and if the Local or Road Train is a turn crew or straight-away crew;
- viii. The industries served by each identified Local Train; and
- ix. The frequency of service of each Local Train.

i. Please describe the security procedures employed at each of the CSXT rail yards.

Response:

CSXT objects to this Interrogatory as vague and ambiguous because the term “yard” is not defined. CSXT will interpret “yard” as a railroad facility where a yard crew and/or locomotive has been assigned. CSXT also objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to this Interrogatory as overbroad and unduly burdensome — in over 25 subparts it asks for detailed information about essentially every CSXT rail yard in the United States. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce business records or other documents from which the answer to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R.

§ 1114.26(b).

INTERROGATORY NO. 8

Please describe how hazardous materials are handled by CSXT in each of the yards identified in response to Interrogatory No. 7, and specifically describe the procedures used by CSXT to classify railcars containing hazardous materials and if such classification occurs in a separately designated portion of the yards.

Response:

CSXT specifically objects to this Interrogatory to the extent it calls for disclosure of Sensitive Security Information (“SSI”). CSXT further objects to this Interrogatory as overbroad and unduly burdensome because it asks for information about nearly every CSXT rail yard in the United States. Subject to and without waiving these objections and the General Objections, CSXT states that it handles hazardous materials in accordance with all applicable federal regulations, including Federal Railroad Administration (“FRA”) and Pipeline and Hazardous Materials Safety Administration (“PHMSA”) regulations. CSXT will produce any additional

policies for handling hazardous materials at these yards that do not constitute SSI to the extent that such policies exist and can be located in a reasonable search.

INTERROGATORY NO. 9

Please provide the maximum permissible gross weight on rail ("GWR") per railcar for each CSXT line segment in the SARR States. For all segments having a GWR less than 286,000 lbs. per railcar, please indicate the items and factors that limit the GWR for the identified segments.

Response:

Subject to and without waiving the General Objections, CSXT responds that it will produce business records from which the answer to this Interrogatory can be derived or ascertained. *See* 49 C.F.R. § 1114.26(b).

INTERROGATORY NO. 10

Please identify any computer programs or models that are currently being or have been used by CSXT in the past three years to simulate a locomotive's and/or a train's performance while moving over a particular route. For all programs and models, identify all the necessary inputs required to run the program.

Response:

CSXT specifically objects to the vague and undefined term "computer programs or models." CSXT further objects to the overbroad and unduly burdensome request for all such programs used "within the past three years." Subject to and without waiving these objections and the General Objections, CSXT responds that it has utilized several computer programs or models to simulate locomotive and train performance while moving over a particular route, including but not necessarily limited to Rail Traffic Controller published by Berkeley Simulation Software; Rails 2000 published by CANAC Inc.; Train Dynamics Analyzer published by WABCO; a calculator CSXT developed in-house to analyze chokepoints; and Train Operations Energy Simulator ("TOES").

INTERROGATORY NO. 11

Please identify any computer programs or models that are currently being used or have been used by CSXT in the past three years to (a) download locomotive event or similar data from locomotives along any line segment in the SARR States, and/or (b) process locomotive event data for purposes of determining locomotive throttle position and/or fuel consumption.

Response:

CSXT specifically objects to the vague and undefined term “computer programs or models.” CSXT further objects to the overbroad and unduly burdensome request for all such programs used “within the past three years.” Subject to and without waiving these objections and the General Objections, CSXT responds that it has developed a system to download and process locomotive event recorder data, which is known as the Event Recorder Automated Download system.

INTERROGATORY NO. 12

Please identify each scheduled Road Train operating in the SARR states and for each of the identified Road Trains, please identify the following:

- a. CSXT’s train identifier or designation of each identified Road Train and the beginning and end points served by each of the identified Road Trains;
- b. State whether the crews are assigned or in pool service. Identify home and away-from-home terminals for each crew district;
- c. The scheduled on-duty and off-duty locations for each crew assigned to the identified Road Trains;
- d. The number of crew members typically assigned per shift to each of the identified Road Trains;
- e. The number and type of locomotives typically assigned to each of the Road Trains;
- f. The number and type of loaded and empty cars typically assigned to each of the Road Trains;
- g. The trailing length for each of the identified Road Trains;
- h. The trailing weight for each of the identified Road Trains;
- i. The scheduled frequency of service for each identified Road Train; and
- j. The scheduled time of departure and arrival at stations served by each of the identified Road Trains.

Response:

CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to this Interrogatory as overbroad and unduly burdensome because it asks for detailed operating specifications for every CSXT scheduled Road Train that operates in the United States. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce business records or other documents from which the answer to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R. § 1114.26(b).

INTERROGATORY NO. 13

Please identify the location and name of each intermodal terminal or yard located on CSXT's rail lines in the SARR States, and provide the following information for each identified terminal or yard:

- a. Please describe the services CSXT provides at each intermodal terminal or yard identified in response to this interrogatory;
- b. For each terminal or yard, describe the yard and track layout, yard and track signaling, yard switching, and the track connection(s) to mainline track;
- c. If CSXT does not provide services at any of the intermodal terminals or yards, please identify the entity that provides service at each intermodal terminal or yard;
- d. State whether the loading and unloading facilities are owned and/or operated by CSXT and its personnel, or whether by an outside contractor at each facility. If owned or operated by a contractor, please identify lift and other charges contained in contracts for services provided by the contractor(s);
- e. Please describe all CSXT operations at each intermodal terminal or yard, including but not limited to:
 - i. A description of each job assignment at each identified intermodal terminal or yard;
 - ii. The number of shifts assigned per day for each job assignment;
 - iii. The number of train crews assigned at each intermodal terminal or yard including a description of the services provided by each train crew, and;
 - iv. The number of annual lifts performed at each intermodal terminal or yard.

f. Please describe the security procedures employed at each intermodal terminal or yard located on CSXT rail lines in the SARR States.

Response:

CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to subpart (f) to the extent it calls for disclosure of Sensitive Security Information ("SSI"). Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-SSI business records or other documents from which the answer to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R.

§ 1114.26(b).

INTERROGATORY NO. 14

Please identify each scheduled Intermodal Train operating in the SARR states and for each of the identified Intermodal Trains, please identify the following:

- a. CSXT's train identifier or designation of each identified Intermodal Train and the beginning and end points served by each of the identified Intermodal Trains;
- b. The scheduled on-duty and off-duty locations for each crew assigned to the identified Intermodal Trains;
- c. The number of crew members typically assigned per shift to each of the identified Intermodal Trains;
- d. The number and type of locomotives typically assigned to each of the Intermodal Trains;
- e. The number and type of loaded and empty cars typically assigned to each of the Intermodal Trains;
- f. The trailing length for each of the identified Intermodal Trains;
- g. The trailing weight for each of the identified Intermodal Trains;
- h. The scheduled frequency of service for each identified Intermodal Train; and
- i. The scheduled time of departure from the initial terminal to scheduled time of arrival at final terminal destination on CSXT for each of the identified Intermodal Trains.

Response:

CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to this Interrogatory as overbroad and unduly burdensome because it asks for detailed operating specifications for every CSXT scheduled Intermodal Train that operates in the United States. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce business records or other documents from which the answer to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R. § 1114.26(b).

INTERROGATORY NO. 15

Please identify the location and name of each Automotive Distribution Center located on CSXT's rail lines in the SARR States, and provide the following information for each identified Automotive Distribution Center:

- a. Please describe the services CSXT provides at each Automotive Distribution Center identified in response to this interrogatory;
- b. If CSXT does not provide services at any of the Automotive Distribution Centers, please identify the entity that provides service at each Automotive Distribution Center;
- c. Please describe CSXT operations at each Automotive Distribution Center, including but not limited to:
 - i. A description of each job assignment at each Automotive Distribution Center;
 - ii. The number of shifts assigned per day for each job assignment, and;
 - iii. The number of train crews assigned at each Automotive Distribution Center including a description of the services provided by each train crew.
- d. Please describe the security procedures employed by CSXT at each of the Automotive Distribution Centers.

Response:

CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to subpart (d) to the extent it calls for disclosure of Sensitive Security Information ("SSI"). Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-SSI business records or other documents from which the answer to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R. § 1114.26(b).

INTERROGATORY NO. 16

Please identify each scheduled Automotive Train operating in the SARR states and for each of the identified Automotive Trains, please identify the following:

- a. CSXT's train identifier or designation of each identified Automotive Train and the beginning and end points served by each of the identified Automotive Trains;
- b. The scheduled on-duty and off-duty locations for each crew assigned to the identified Automotive Trains;
- c. The number of crew members typically assigned per shift to each of the identified Automotive Trains;
- d. The number and type of locomotives typically assigned to each of the Automotive Trains;
- e. The number and type of loaded and empty cars typically assigned to each of the Automotive Trains;
- f. The trailing length for each of the identified Automotive Trains;
- g. The trailing weight for each of the identified Automotive Trains;
- h. The scheduled frequency of service for each identified Automotive Train; and
- i. The scheduled time of departure and arrival at stations served by each of the identified Automotive Trains.

Response:

CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to this Interrogatory as overbroad and unduly burdensome because it asks for detailed operating specifications for every CSXT scheduled

Automotive Train that operates in the United States. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce business records or other documents from which the answer to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R. § 1114.26(b).

INTERROGATORY NO. 17

Please identify the locations and names of each TRANSFLO terminal located on CSXT's rail lines in the SARR States, and provide the following information for each identified terminal:

- a. Please describe the services CSXT provides at each TRANSFLO terminal;
- b. If CSXT does not provide services at any TRANSFLO terminal, please identify the entity that provides service at each TRANSFLO terminal;
- c. Please describe CSXT operations at each of the TRANSFLO terminals, including but not limited to:
 - i. A description of each job assignment at each TRANSFLO terminal;
 - ii. The number of shifts assigned per day for each job assignment, and;
 - iii. The number of train crews assigned at each TRANSFLO terminal including a description of the services provided by each train crew.
- d. For each TRANSFLO terminal, please state if it is located in a CSXT yard, and if so, please state if the TRANSFLO terminal is located in a distinct section of the yard and if it is serviced by yard locomotives identifier;
- e. Please identify each Road Train by train identifier or train designation which serves each TRANSFLO terminal and the frequency of the service provided by each Road Train; and
- f. Please identify the security procedures employed by CSXT at each TRANSFLO terminal.

Response:

CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to subpart (f) to the extent it calls for disclosure of Sensitive Security Information ("SSI"). Subject to and without waiving these objections and

the General Objections, CSXT responds that it will produce non-SSI business records or other documents from which the answer to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. See 49 C.F.R. § 1114.26(b).

INTERROGATORY NO. 18

Please identify any company other than CSXT that provides for the development, implementation and/or maintenance of computer systems, software and associated documentations for the day-to-day operations of CSXT.

Response:

CSXT objects to this Interrogatory as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Nearly every function or division of CSXT has, from time to time, used services of outside companies, consultants, or contractors for some information technology purposes, and TPI's expansive Interrogatory (which has no time limitation) calls for burdensome production of significant amounts of information that have no relevance to a Stand Alone Cost analysis in this case. Subject to and without waiving this objection and the General Objections, CSXT states that the company other than CSXT with primary responsibility for the development, implementation and maintenance of computer systems, software and associated documentations for the day-to-day operations of CSXT is CSX Technology, Inc. (including CSX Technology's subsidiaries and affiliates).

INTERROGATORY NO. 19

For each company identified in response to Interrogatory No. 18 which is a subsidiary or affiliate of CSX, or a joint venture involving CSX, please describe the services provided by the company and state if that company outsources any portion of its program development, computer program maintenance and/or other computer related activities. If so, please identify each company providing the outsourced services and describe the services outsourced.

Response:

CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to the vague term “outsourcing,” which CSXT will construe to mean contracts or arrangements with unaffiliated or unrelated entities. Moreover, to the extent it seeks information that does not pertain to the operations of CSXT, this Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections or the General Objections, CSXT states that CSX Technology, Inc. and CSXT are both subsidiaries of CSX Corp. CSX Technology provides CSXT with technology support services, which include computer operations management and communication solution services; enterprise technology services; applications maintenance and development, and special technology projects such as fulfilling requests from specific departments or user groups to provide new or improved functionality. CSX Technology does outsource a portion of its functions. CSXT will produce business records or other documents from which the answer to the remaining portions of this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. See 49 C.F.R. § 1114.26(b).

INTERROGATORY NO. 20

Please describe the CSXT personnel, processes, utilization, computer programs, computer models and electronic data that is utilized by CSXT when developing or implementing its “ONE Plan” for improving operating performance.

Response:

CSXT specifically objects to this Interrogatory because it is not reasonably calculated to lead to the discovery of admissible evidence. The question in this proceeding is whether the rates CSXT charges for the transportation at issue are reasonable under a stand-alone cost analysis under the Constrained Market Pricing principles established in *Coal Rate Guidelines*, 1

I.C.C.2d 520 (1985). Questions about CSXT's internal performance improvement programs do not have any relevance to the issues in this case.

INTERROGATORY NO. 21

Please describe the CSXT personnel, processes, utilization, computer programs, computer models and electronic data (both input data and output data) associated with each of the following models or tools used by CSXT and/or CSXI to facilitate commercial and operational planning:

1. Traffic Flow Analyzer ("TFA");
2. Multi Rail Enterprise Edition ("MREE");
3. Algorithmic Class Tracking ("ACT");
4. Rail Traffic Controller ("RTC");
5. Corridor Analyzer;
6. Demand Forecasting Flowmap Tool;
7. Service Planning Change Management System ("SPCMS");
8. Locomotive Fuel and Planning System ("LFPS");
9. Locomotive Simulation Model ("LSM");
10. Crew Planning System; and
11. Rail Corridor Risk Management System ("RCRMS").

CSXT's detailed explanation should include a description of how each of these models/tools are utilized internally by CSXT alone or in conjunction with other models/tools.

Response:

CSXT objects to this Interrogatory to the extent it calls for a special study that CSXT is not required to conduct. CSXT also objects to this Interrogatory as overbroad and unduly burdensome, and calling for irrelevant information to the extent it asks for a description of "personnel, processes, utilization, computer programs, computer models and electronic data" for eleven separate computer models. CSXT further objects to this Interrogatory as seeking information that CSXT may not be authorized to provide to share under applicable agreements (including licensing agreements) and intellectual property laws. Subject to and without waiving these objections or the General Objections, CSXT will provide a description of the purpose and function of these models.

INTERROGATORY NO. 22

In a September 10, 2000 paper titled "CSX Track Chart and Engineering Information System", CSXT describes its CSX Track Chart and Engineering Information System ("System").

- a. Please describe in detail the capabilities and typical uses of the System.
- b. Please describe how to remotely access the CSXT System.
- c. For each of the components of the CSXT System listed below, please describe each component in detail and identify any fields or values used to interpret data derived from each component. This includes, but is not limited to, the following components:
 - i. Track Geometry Measurement Data;
 - ii. Track Management Program;
 - iii. Geographical Database ("GIS");
 - iv. The "System Foundation" containing milepost, latitude, longitude, elevation, switch and other track data;
 - v. Track Measurements;
 - vi. Mainframe Engineering Database;
 - vii. Electronic Track Charts; and
 - viii. Corridor Survey.
- d. Please describe the procedures for logging into the System and accessing each of the components identified in subpart c. to this Interrogatory No. 22.

Response:

CSXT objects to this Interrogatory to the extent it calls for a special study that CSXT is not required to conduct. CSXT also objects to this Interrogatory as overbroad and unduly burdensome, and calling for irrelevant information to the extent it asks for a detailed description of CSXT's internal systems, including utterly irrelevant information such as procedures for logging on to that system remotely. Subject to and without waiving these objections or the General Objections, CSXT will provide a description of the purpose and function of the CSX Track Chart and Engineering Information System.

III. REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1

Please produce all documents related to the preparation of the single line and AAR Accounting Rule 11 rates for TPI shipments identified on Exhibits A and B to TPI's Verified Complaint, and all predecessor publications thereto, including but not limited to all documents used and/or relied upon in determining the formula for calculating the rates.

Response:

CSXT specifically objects to this Request because it is not reasonably calculated to lead to the discovery of admissible evidence. The question in this proceeding is whether the rates CSXT charges for the transportation at issue are reasonable under a stand-alone cost analysis under the Constrained Market Pricing principles established in *Coal Rate Guidelines*, 1 I.C.C.2d 520 (1985). The process by which a railroad calculates its rates has no relevance in a SAC analysis. Here, therefore, how CSXT "establish[ed]" its rates or "determin[ed] the formula for calculating the rates" are not relevant. CSXT further objects to the request for production of "all" documents as overbroad and unduly burdensome. CSXT also objects to the request for all documents "related to" the establishment of the Challenged Rates as vague, ambiguous, and overbroad.

REQUEST FOR PRODUCTION NO. 2

Please produce all studies and analyses conducted by or for CSXT from January 1, 2003 to date related to (a) the profitability of CSXT's traffic by traffic group; and (b) the profitability of transportation service provided by CSXT for the account of TPI including, but not limited to, all studies and analyses produced by CSXT's EyeProfit profitability analysis system.

Response:

CSXT specifically objects to the vague, ambiguous, and undefined term "profitability." CSXT further objects to the extent that TPI's request for "profitability" studies calls for the production of CSXT's internal costing data. Requests for "profitability" studies, when coupled

with TPI's requests for the actual revenue data that CSXT will provide, constitute an impermissible attempt to obtain internal railroad costing data that the Board has long held is not subject to discovery in a Stand Alone Cost case. Moreover, the "profitability of CSXT's traffic" and "profitability of transportation service provided by CSXT for the account of TPI" are not relevant to whether the Challenged Rates are reasonable under the stand-alone cost constraint. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time and instead seeks information since 2003. Subject to and without waiving these objections or the General Objections, CSXT responds that it does not possess studies of "profitability" based on Uniform Rail Costing System data.

REQUEST FOR PRODUCTION NO. 3

For each TPI Shipment, either individually or aggregated in any form with other CSXT movements, produce all documents, including but not limited to any studies or other analyses, that refer or relate to actual or potential competition to CSXT from other rail carriers or transportation modes, or to transportation alternatives that are or might be available to TPI for such movements.

Response:

CSXT specifically objects to the request for the production of "any studies, analyses or other documents" on the ground it is overbroad and unduly burdensome. CSXT also objects to this Request to the extent it calls for information protected by the work product doctrine. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not time-limited. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 4

For each of the commodities identified in Exhibits A and B to TPI's Verified Complaint, either individually or aggregated in any form with other commodities, produce all documents, including but not limited to any studies or other analyses, that refer or relate

to actual or potential competition to CSXT from other rail carriers or transportation modes for the transportation of such commodities, or to transportation alternatives that are or might be available for the movement of such commodities by rail.

Response:

CSXT incorporates by reference its response to Request for Production No. 3.

REQUEST FOR PRODUCTION NO. 5

Produce all documents, including but not limited to any studies or other analyses, that refer or relate to actual or potential competition to CSXT from other rail carriers or transportation modes for transportation for the account of TPI, or to transportation alternatives that are or might be available to TPI for any of the TPI Shipments, either individually or aggregated in any form with other CSXT movements or other commodities.

Response:

CSXT incorporates by reference its response to Request for Production No. 3.

REQUEST FOR PRODUCTION NO. 6

For each TPI Shipment, either individually or aggregated in any form with other CSXT movements, produce all documents, including but not limited to any studies or other analyses, that refer or relate to: (a) the price that would or might be charged by other carriers or modes of transportation for transportation from Origin to Destination; and (b) the cost(s) that would or might be incurred by other carriers or modes of transportation for the transportation from Origin to Destination.

Response:

CSXT incorporates by reference its response to Request for Production No. 3.

REQUEST FOR PRODUCTION NO. 7

For each of the commodities identified in Exhibits A and B to TPI's Complaint, either individually or aggregated in any form with other commodities, produce all documents, including but not limited to any studies or other analyses, that refer or relate to: (a) the price that would or might be charged by other carriers or modes of transportation for the transportation of such commodities; and, (b) the cost(s) that would or might be incurred by other carriers or modes of transportation for the transportation of such commodities.

Response:

CSXT incorporates by reference its response to Request for Production No. 3.

REQUEST FOR PRODUCTION NO. 8

For each of the commodities identified in Exhibits A and B to TPI's Verified Complaint, either individually or aggregated in any form with other commodities, produce all documents, including but not limited to any studies or other analyses, that refer or relate to the physical characteristics of such commodities and the effect of those physical characteristics on the ability to transport such commodities via modes other than rail.

Response:

CSXT incorporates by reference its response to Request for Production No. 3.

REQUEST FOR PRODUCTION NO. 9

Produce all documents created, reviewed or referred to by CSXT, from January 1, 2006 through the present, to assess the market for transportation of each TPI Shipment and to set rates on each TPI Shipment, including but not limited to any competitive alternatives to CSXT rail transportation.

Response:

CSXT specifically objects to this Request because it is not reasonably calculated to lead to the discovery of admissible evidence. The question in this proceeding is whether the rates CSXT has established for the transportation at issue exceed a maximum reasonable level under a stand-alone cost analysis under the Constrained Market Pricing principles established in *Coal Rate Guidelines*, 1 I.C.C.2d 520 (1985). The process by which a railroad sets its rates has no relevance in a SAC analysis. Here, therefore, how CSXT "assess[ed] the market for transportation" is not relevant. CSXT also objects to the request for "all documents created, reviewed or referred to by CSXT, from January 1, 2006 through the present, to assess the market for transportation" as vague, ambiguous, overbroad, and unduly burdensome.

REQUEST FOR PRODUCTION NO. 10

Produce all documents created, reviewed or referred to by CSXT, from January 1, 2006 through the present, to assess the market for transportation of each commodity in Exhibits A and B to TPI's Verified Complaint and to set rates on the movement of such commodities, including but not limited to any competitive alternatives to CSXT rail transportation.

Response:

CSXT incorporates by reference its response to Request for Production No. 9.

REQUEST FOR PRODUCTION NO. 11

Produce all documents created, reviewed or referred to by CSXT, from January 1, 2006 through the present, to assess the market for transportation in any of the SARR States for each movement and commodity in Exhibits A and B to TPI's Verified Complaint and to set rates on the movement of such commodities, including but not limited to any competitive alternatives to CSXT rail transportation.

Response:

CSXT incorporates by reference its response to Request for Production No. 9.

REQUEST FOR PRODUCTION 12

Please produce for each CSXT territory or division located in the SARR States, organization charts which show each CSXT management and/or supervisory position, the number of personnel in each position and the relationship or reporting authority and relative rank of each position. Please include organizational charts which include, but are not limited to, positions related to train operations, yard operations, maintenance of way, maintenance of equipment, engineering, and general and administrative functions. Also, include the relationship and reporting authority from each CSXT territory or division to CSXT senior management.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the extent that this Request is overbroad and unduly burdensome by requesting organization charts that encompass virtually every CSXT employee in the United States. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 13

Please produce current operating timetables (including special instructions and/or operating rule books), station lists, station books, track charts and "condensed profiles" (including schematics which identify the division, subdivision, and ownership status (*i.e.*, whether railroad-owned or privately-owned) of the tracks at the Origins and Destinations), and any other document containing mileage figures and/or the feet between mileposts, which are applicable to CSXT lines in the SARR States. Please provide the requested documents in machine-readable format to the extent available (including all necessary documentation). If current versions of any of the requested documents are not available, please produce the most recent versions that are available.

Response:

Subject to and without waiving the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 14

For each Intermodal terminal or yard, Automotive Distribution Center and TRANSFLO terminal located in the SARR states, please provide documents showing the track layout, the length of each track, the ownership of each track and descriptions of the existing facilities.

Response:

Subject to and without waiving the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 15

For all locations in the SARR States where CSXT interchanges railcars and/or trains with another railroad, please provide documents that: (a) describe the interchange procedures at each location; (b) identify the tracks (and length of each track) used for interchange purposes; and (c) identify the ownership of each track used for interchange purposes.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data

and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 16

Please provide documents setting forth CSXT's policy on the construction of industrial tracks to serve customers, including, but not limited to, construction specifications and how costs for all track construction from the connection to CSXT track to the industry (including all turnouts) is allocated between CSXT and the customer.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession or make such documents available for inspection by TPI counsel and/or consultants at CSXT's headquarters in Jacksonville upon request.

REQUEST FOR PRODUCTION NO. 17

Please produce copies of all documents, including agreements and/or understandings and all amendments and supplements thereto between CSXT and each railroad identified in Interrogatory No. 6, part "F", that refer or relate to the pricing and handling of all commodities, including but not limited to:

- a. Agreements or understandings pertaining to CSXT's payments to any of the identified railroads of a revenue factor, division, flat rate or other type of compensation for the railroad's portion of a movement;
- b. Locomotive run-through power or power sharing agreements or arrangements;
- c. Train crew run-through or train crew sharing agreements or arrangements;

- d. Any other agreements or arrangements pertaining to rates, surcharges, revenue sharing or operations; and
- e. Any operating timetables (including special instructions and/or operating rule books), station lists, station books, track charts and "condensed profiles" for any of the above listed railroads; and
- f. Copies of all bills or invoices from 2008 to the present (including all supporting documents and data) rendered between CSXT and any of the identified railroads pursuant to each of the agreements and/or understandings produced in response to this Request for Production No. 17.

Response:

CSXT specifically objects to this Request as overbroad and unduly burdensome to the extent it requires production of multiple categories of documents relating to 145 separate short line railroads. CSXT also objects to the vague, ambiguous, and overbroad request for documents that "refer or relate to the pricing and handling of all commodities." CSXT further objects to part e of this Request for Production as seeking documents available from other sources; TPI can obtain the listed railroads' timetables from those railroads themselves. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION 18

For each CSXT line segment in the SARR States, please produce documents, in a computer-readable format to the extent available, which contain operating statistics and density data (including but not limited to train miles, train hours, locomotive unit miles, loaded car-miles, empty car-miles, net ton-miles, gross ton-miles (both including and excluding locomotives), number of trains, etc.) for all traffic by commodity for each year or partial year 2008 to the present.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data

and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 19

Please provide the following density information for CSXT's entire system for each year or partial year 2008 to the present in its native format (computer readable), including all record layouts, field descriptions, data definitions and data dictionaries/decoders required to use the data. The density database or spreadsheet should include, at a minimum, the following data:

- a. Identification of the unique railroad divisions, subdivisions, and individual line segments for each unique density segment;
- b. Station name and SPLC at the beginning of a unique density segment and at the end of a unique density segment;
- c. Beginning and ending milepost for each unique density segment;
- d. Rail and track mileage for each unique density segment;
- e. (i) Total density (both directions including empty and loaded trains) by segment expressed in net ton-miles; or in the alternate, (ii) CSXT should provide total density (both directions including empty and loaded trains) by segment expressed in gross ton-miles plus appropriate factors that can be used to convert gross ton-miles to net ton-miles on each unique density segment; and
- f. Density information (i) for segments that CSXT utilizes via trackage rights (a joint facility or other joint use agreement) on another railroad and (ii) for segments where other railroads operate by trackage rights (a joint facility or other joint use agreement) over CSXT segments and identification of such densities that are included in the total densities provided in response to subpart e. above.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data

and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION 20

Please produce the data bases, data warehouses and computer programs (with all documentation related to these data bases and computer programs), in a computer-readable format, that include the information listed below for each movement handled by CSXT or CSXI as originating, terminating, overhead or single-line carrier that traveled in any of the SARR States for each year or partial year 2008 to the present:

- a. Commodity (seven-digit Standard Transportation Commodity Code "STCC");
- b. Origin station and state;
- c. Destination station and state;
- d. The name of the customer, consignee, payee and shipper for each shipment record;
- e. For shipments that originated on CSXT's system, the date and time the shipment was originated;
- f. For shipments CSXT received in interchange, the on-junction station, state and Standard Point Location Code ("SPLC");
- g. For shipments CSXT received in interchange, the road received from;
- h. For shipments CSXT received in interchange, the date and time the shipment was interchanged;
- i. For shipments given in interchange, off-junction station, state and SPLC;
- j. For shipments given in interchange, the road given to;
- k. For shipments given in interchange, the date and time the shipment was interchanged;
- l. For shipments terminated on CSXT's system, the date and time the shipment was terminated;
- m. Origin Freight Station Accounting Code ("FSAC");
- n. Destination FSAC;
- o. Origin SPLC;
- p. Destination SPLC;
- q. Number of railcars;

- r. Number of intermodal containers/trailers
- s. Tons (Net);
- t. Railcar tare weight;
- u. Intermodal container/trailer tare weight;
- v. Total freight revenues from origin to destination, including any adjustments thereto, along with a description of the adjustment (i.e., add to or subtract from gross revenue);
- w. CSXT's share or division of the total freight revenues, including any adjustments thereto;
- x. Total revenues from surcharges (including but not limited to fuel surcharges), and whether such revenue from surcharges is included in the total freight revenues and CSXT's division thereof provided in response to Subparts (v) and (w) above;
- y. The contract, agreement, tariff, pricing authority, etc. that the shipment is billed under, including the amendment and item numbers;
- z. Waybill number and date;
- aa. TOFC/COFC plan;
- bb. Car/trailer/container initial for each car/trailer/container used to move the shipment (for intermodal movements provide both the railcar and container/trailer initials);
- cc. Car/trailer/container number for each car/trailer/container used to move the shipment (for intermodal movements provide both the railcar and container/trailer number);
- dd. The train identification number of all trains used to move the shipment;
- ee. The number of locomotives, by train identification, by segment, used to move the shipment;
- ff. The total horsepower, by train identification, by line segment, used to move the shipment;
- gg. The total gross trailing tons, by train identification, by line segment, for all trains used to move the shipment;
- hh. The station, state and SPLC where the traffic was interchanged between trains;
- ii. Total loaded movement miles;
- jj. The predominant route of movement for each shipment on CSXT's system that is associated with the loaded movement miles;
- kk. Total empty movement miles;
- ll. Miles used to derive applicable fuel surcharges;

- mm. Applicable fuel surcharge rate;
- nn. Total loaded miles on CSXT's system;
- oo. Total empty miles on CSXT's system;
- pp. AAR car-type code; and
- qq. Provider of car and trailer/container (CSXT-owned, CSXT-leased, shipper, or foreign road).

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also specifically objects to the requests in subparts v and x, ii, and kk as irrelevant and unduly burdensome to the extent they seek non-CSXT information. CSXT further objects to this Request to the extent it seeks information about the "nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to [CSXT] for transportation," 49 U.S.C. § 11904, on the grounds that disclosure of such information to a third person (*i.e.* a person other than the shipper or consignee to whom that information pertains) is generally unlawful. The Protective Order recently issued by the Board expressly provides for the production of such information (designated "Highly Confidential"), however, finding that production of that information is essential to the disposition of this case and providing that production of such information in this case "will not be deemed a violation of 49 U.S.C. § 11904." *See* Decision at 5, ¶ 7, *Total Petrochemicals USA Inc. v. CSX Transportation, Inc.*, STB Docket No. 42121 (served June 23, 2010) (Procedural Schedule and Protective Order). Accordingly, subject to CSXT's other objections, CSXT will search for and produce responsive information whose production would otherwise be prohibited by Section 11904, to the extent it exists and is in CSXT's possession. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-

privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 21

Please produce documents, in a computer readable format to the extent available, which contain complete information (including all events) tracking and describing car, locomotive and train movements for each car, locomotive and train moving on CSXT lines to, from or through the SARR States for each year or partial year 2008 to the present. Provide location information by station, state and SPLC.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request because it is overbroad and unduly burdensome, calling for the production of millions of records. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 22

Please provide copies of the CSXT train dispatcher sheets (and the data recorded in such sheets in a computer readable format, to the extent available), or other documents (e.g., conductor wheel reports) that record train movement data in a computer readable format to the extent available, for all car and train movements and yard and hub operations on CSXT to, from or through the SARR States for each year or partial year 2008 to the present.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request because it is overbroad and unduly burdensome, to the extent it calls for CSXT to produce data

that is not readily accessible in a computer readable format. Subject to and without waiving these objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 23

Please provide all documents, including programs, decoders, and instructions, necessary to utilize, evaluate and link the data produced in response to Request for Production Nos. 20, 21 and 22. Please include with this production a description of the relationship between the databases (e.g., whether there is a 1:1 ratio between databases, or whether one can expect to link 100% of the records in one file to another file.) Please also indicate which data fields are common to (and may be used to link) the provided databases.

Response:

CSXT objects to this Request to the extent that it requires CSXT to share “programs, decoders, and instructions,” which may violate the terms of applicable software licenses and agreements. CSXT further objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing “decoders” or devising means to “link” data. CSXT also objects to this Request because it is overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will provide information necessary for TPI’s consultants to access and read the data CSXT produces, to the extent that CSXT maintains such information.

REQUEST FOR PRODUCTION NO. 24

Please produce all studies, analyses, reports, or other documents that evaluate or report on CSXT’s implementation and recent update of its “ONE Plan” which, according to CSXT, is an internal company program for improving operating performance of the railroad and driving greater network efficiencies.

Response:

CSXT specifically objects to this Request because it is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. The question in this proceeding is whether the rates CSXT charges for the transportation at issue are reasonable under a stand-alone cost analysis under the Constrained Market Pricing principles established in *Coal Rate Guidelines*, 1 I.C.C.2d 520 (1985). Questions about CSXT's internal performance improvement programs do not have any relevance to the issues in this case.

REQUEST FOR PRODUCTION NO. 25

Please produce all studies, analyses, reports, or other documents that evaluate or report on CSXT's implementation of its "Total Service Integration" ("TSI") initiative which, according to CSXT, is an internal company program for better aligning CSXT's operating capabilities with its customer demand.

Response:

CSXT specifically objects to this Request because it is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Questions about CSXT's internal performance improvement programs do not have any relevance to the issues in this case.

REQUEST FOR PRODUCTION NO. 26

Please provide CSXT's geographic information system ("GIS") that captures, stores, analyzes, manages and presents CSXT data that are linked by locations across the CSXT rail system.

Response:

CSXT objects to this Request because it requires CSXT to produce software in potential violation of applicable licensing agreements and intellectual property laws. CSXT also objects to this Request because it calls for production of commercially available software or equivalents of such software that can be acquired from other sources. CSXT further objects because TPI's

request that CSXT produce software is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 27

Please provide the CSXT mileage chart and/or table-based mileage matrix and/or routing table that identifies the CSXT rail mileage between any two points on the CSXT rail system based upon a predominant or expected route of movement.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT specifically objects that the request for a mileage chart providing mileages between each and every pair of points on the CSXT system, uniformly and entirely “based upon a predominant or expected route of movement” would require a special study. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they exist.

REQUEST FOR PRODUCTION NO. 28

Please provide working copies of the following analytical models or tools (including all necessary input data files) utilized by CSXT and/or CSXI to develop commercial and operational plans for CSXT:

1. TFA;
2. MREE;
3. ACT;
4. RCRMS;
5. RTC;
6. Corridor Analyzer;
7. SPCMS;
8. LFPS;
9. Crew Planning System;
10. Demand Forecasting Flowmap Tool; and
11. LSM.

Response:

CSXT objects to this Request to the extent that it requires CSXT to share “analytical models or tools,” which may violate the terms of applicable licenses or agreements, as well as intellectual property laws. CSXT also objects to this Request because it is overbroad and unduly burdensome. CSXT further objects because TPI’s demand that CSXT produce software is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 29

Please produce all transportation contracts, including all amendments and supplements thereto (or letters of understanding with appendices or attachments), and all tariffs, common carrier pricing authorities or other documents containing common carrier rate and service terms (collectively “pricing authorities”), entered into, agreed to or established or provided by CSXT which govern shipments handled by CSXT as originating, terminating, overhead or single-line carrier to, from or through any of the SARR States in any of the years 2008 and beyond. For each pricing authority, please provide the traffic volumes and revenues associated with the movement of traffic under each pricing authority by traffic group (e.g., coal, ag, intermodal, etc.) and year for 2008 through the present.

Response:

CSXT objects to this Request as unduly burdensome and overbroad. CSXT has had millions of common carrier prices and thousands of contracts in effect since the beginning of 2008. The burden of producing tariffs and common carrier authorities is particularly undue because current tariff information is public and readily available to TPI. *See Duke Energy v. Norfolk So. Co.*, STB Docket Nos. 42069, 42070 (July 26, 2002) (“[I]t is unduly burdensome to require a party to produce information that is available from public records or through less intrusive means.”). And, the request for production of “all” contracts creates a significant burden on CSXT both to identify those contracts with provisions requiring notification of the customer before the contract may be disclosed in discovery and to provide appropriate notice to such customers. Subject to and without waiving these objections or the General Objections, CSXT

responds that production of “all” contracts and pricing authorities is unduly burdensome, unreasonable, and unlikely to be of use to TPI in this litigation. However, CSXT will make a reasonably limited number of contracts available to TPI for inspection. The traffic files that CSXT will produce will contain a field identifying the pricing authority for each movement, which should enable TPI to select particular contracts for inspection. CSXT will make a reasonable number of individual contracts available for inspection by TPI counsel and/or consultants at CSXT’s headquarters in Jacksonville upon request, which should be made far enough in advance for CSXT to evaluate and satisfy its contractual obligations to notify other parties to the contract. In addition, information on millions of current CSXT common carrier pricing rates is available to TPI (and the general public) on CSXT’s website at <http://www.csx.com/?fuseaction=customers.pricing>.

REQUEST FOR PRODUCTION NO. 30

Please produce all forecasts and all documents related to forecasts or projections prepared by or for CSXT from 2008 through the present, or in CSXT's possession, of future traffic volumes and/or revenues for freight traffic by traffic group (including any breakdowns of any such forecasts or projections whether by commodity classification, geographic region, line segment, or any other category) moving over any portion of the CSXT system located in any of the SARR States. Documents responsive to this request include, but are not limited to, traffic projections prepared in connection with engineering studies or authorization for expenditures or marketing studies or operating expense budgets or capital budgets or mergers with or acquisitions of other carriers.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the request for production of “all” documents as overbroad and unduly burdensome. CSXT also specifically objects to TPI’s request for all forecasts created since 2008 because CSXT does not maintain historical forecasts in a readily accessible format. CSXT also objects to TPI’s overbroad and

unduly burdensome request for all documents “related to” forecasts. CSXT further objects to TPI’s request for outdated 2008 forecast data as irrelevant and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive forecasts in its possession that can be identified after a reasonable search.

REQUEST FOR PRODUCTION NO. 31

Please produce all inflation and/or rail cost adjustment estimates or calculations in CSXT’s possession or that CSXT prepared or caused to be prepared or purchased for each year or partial year 2008 to the present, including, but not limited to, any estimates relating to:

- a. The cost of acquiring equity;
- b. The cost of acquiring debt;
- c. General expenses, including, but not limited to, asset, equipment, materials and supplies, fuel and labor expense;
- d. Railroad productivity, including but not limited to commodity-specific productivity, asset productivity and expense productivity;
- e. Gross Domestic Product/Implicit Price Deflator;
- f. Producer Price Index - All Commodities;
- g. The U.S. Department of Energy’s U.S. average price of Retail On-Highway Diesel Fuel; and
- h. Land values along or adjacent to CSXT’s right of way in the SARR states.

Response:

CSXT specifically objects to this Request as vague and ambiguous, particularly as to the requests for estimates relating to “the cost of acquiring equity” and the “cost of acquiring debt.” CSXT further objects to this Request as unduly burdensome in that it asks CSXT to provide documents relating to publicly available data and information that TPI can access readily. *See Duke Energy v. Norfolk So. Co.*, STB Docket Nos. 42069, 42070 (July 26, 2002) (“[I]t is unduly

burdensome to require a party to produce information that is available from public records or through less intrusive means.”).

REQUEST FOR PRODUCTION NO. 32

Please produce all documents that relate to the development of the methodology for the calculation and imposition of the "fuel surcharges" described in CSXT's Fuel Surcharge Publication 8661-B and all predecessor documents, including but not limited to:

- a. Documents related to the determination to calculate the surcharge based upon the length of a line-haul movement;
- b. Documents related to the selection of the Retail On-Highway Diesel Fuel average price as the benchmark for the calculation of the surcharge; and
- c. All analyses, studies or other documents which address the relationship, if any, between the revenues from the surcharge to any specific movement(s) or group of movement(s) and changes in the actual cost to CSXT of the fuel consumed by the locomotives used in that (those) movement(s).

Response:

CSXT specifically objects to this Request as irrelevant to this proceeding, as TPI's request for CSXT to disclose the "development of the methodology for calculation and imposition of [] 'fuel surcharges'" has no relevance to a SAC analysis. As such, this Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 33

To the extent not produced in response to Request for Production No. 32, please produce all documents which relate to the consideration of alternative fuel surcharge methodologies to that described in CSXT's Fuel Surcharge Publication 8661-B, and/or to the consideration of prospective changes or amendments to the methodology described in said publication.

Response:

CSXT hereby adopts and incorporates by reference its response to Request for Production No. 32.

REQUEST FOR PRODUCTION NO. 34

Please produce the databases, data warehouses, and computer programs (with all documentation related to these databases and computer programs), in a computer readable format, sufficient to show all the data requested in TPI's Request for Production No. 20 for each trailer, container, Auto Rack Car or freight car (used for a TRANSFLO shipment) handled by CSXT, including but not limited to revenue received from CSXI's, TDSI's and/or TRANSFLO's customers.

Response:

CSXT objects to this Request to the extent that it requires CSXT to share "databases, data warehouses, and computer programs," which may violate the terms of applicable software licenses or agreements, as well as the copyright and/or patent laws. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce data from its business records responsive to this Request, to the extent that such data exists and can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 35

Please provide documents and data sufficient to link data records for trailer, container, Auto Rack Car and/or freight cars (used for a TRANSFLO shipment) that CSXT will produce in response to Request for Production No. 34 to the corresponding data records appearing in the CSXT waybill/car movement/train movement records or files that CSXT will produce in response to TPI's Request for Production Nos. 20, 21 and 22. If there are no records for CSXT flat cars, Auto Rack Cars or freight cars (used for a TRANSFLO shipment) in the CSXT files that CSXT will produce in response to TPI's Request for Production Nos. 20, 21 and 22, please identify or produce documents sufficient to show the authority used by CSXT and CSXI, TDSI and/or TRANSFLO to move flat cars with CSXI trailers or containers, Auto Rack Cars and/or freight cars (used for a TRANSFLO shipment) that move over CSXT lines (in both directions) in the SARR States.

Response:

CSXT incorporates by reference its response to Request for Production No. 34.

REQUEST FOR PRODUCTION NO. 36

Please produce the databases, data warehouses, and computer programs (with all documentation related to these data bases, data warehouses, and computer programs), in a computer readable format, sufficient to show all of the data requested in TPI's Request for Production No. 20, including but not limited to revenue received by CSXI from its

customers ("freight revenue"), in connection with traffic described in TPI's Request for Production No. 20, for each year or partial year 2008 to the present.

Response:

CSXT incorporates by reference its response to Request for Production No. 34.

REQUEST FOR PRODUCTION NO. 37

Please produce documents which contain the following information for all coal mines that CSXT served or from which CSXT transported coal as an originating, intermediate or terminating carrier that moved in one or more of the SARR States for each year 2008 to the present:

- a. Geographic location, *i.e.*, city, county and state;
- b. Railroad location, *i.e.*, railroad station name, SPLC, and milepost;
- c. Railroad mine identification number corresponding to the identification numbers contained in CSXTs computerized traffic data, *e.g.*, SPLC (Standard Point Location Code), FSAC (Freight Station Accounting Code) or any other numbering system CSXT uses;
- d. Annual tonnages that CSXT transported from that mine;
- e. Track capacity in feet at each location separated between track owned by CSXT and track not owned by CSXT;
- f. The track configuration at each mine, with both the track that CSXT or another rail carrier owns (or jointly owns) and the mine-owned track clearly identified;
- g. Annual weeks of mine operation;
- h. Average tons per car loaded;
- i. Loading capacity (tons per hour); and
- j. If the mine has closed or ceased shipping coal, the date of such closure or of the last shipment.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by developing, compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome. Subject to and without waiving these objections and the General Objections, CSXT refers TPI to the publicly available documents available at http://www.csx.com/?fuseaction=customers.coal_locations and responds that CSXT

will make available for inspection additional non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 38

Please produce any studies, simulations, analyses and other documents in CSXT's possession from January 1, 2003 to present analyzing or related to the transportation of shipments to Destinations from Origins (a) by a rail carrier(s) other than CSXT, and (b) by any mode of transportation other than rail. If no such documents exist, please confirm same in the response to this Request.

Response:

CSXT specifically objects to the request for the production of “any studies, analyses or other documents” on the ground it is overbroad and unduly burdensome. CSXT also objects to this Request to the extent it calls for information protected by the attorney-client privilege and/or work product doctrine. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time and instead seeks information since 2003. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search, to the extent that they exist.

REQUEST FOR PRODUCTION NO. 39

Please produce the following documents (in a computer-readable format to the extent available)

- a. Documents that show the rail line elevation and provide all information maintained by CSXT pertaining to those elevations including, but not limited to, division, subdivision, beginning milepost, ending milepost and elevation in feet above sea level for all CSXT line segments in the SARR states.
- b. Documents that identify all curves on the CSXT line segments in the SARR states and provide all information maintained by CSXT pertaining to those curves including, but not limited to, division, subdivision, beginning milepost, ending milepost and degree of curvature.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the overbroad and unduly burdensome request for “all” information “pertaining to” elevations and “all” information about “all” curves. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 40

Please produce documents (in computer readable format to the extent available) that identify and list the location and type of communications signals used for train operations by milepost, division, and subdivision on all CSXT line segments in the SARR states.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the overbroad and unduly burdensome request for information about “communications signals used for train operations by milepost, division, and subdivision on all CSXT line segments in the SARR states,” which comprises virtually the entire CSXT system. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 41

Please produce documents (in computer readable format to the extent available) that depict individual tracks, connections to the main line, turnouts, communications,

signals and elevations for all yards on the CSXT system which are located in the SARR states.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the overbroad and unduly burdensome request for depictions of "individual tracks, connections to the main line, turnouts, communications, signals and elevations for all yards on the CSXT system which are located in the SARR states," which comprises virtually the entire CSXT system. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 42

Please produce all documents related to unplanned track-related and operating-related incidents or outages that affected train operations from 2008 to the present in the SARR States. If the information requested would require a special study, please produce random failure, outage or incident reports or similar documents, as kept in the ordinary course of business by CSXT, from which the requested data could be extracted.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 43

Please produce any studies or analyses currently being conducted, or that have been conducted over the past three (3) years, which model and evaluate rail operations over the entire CSXT rail system or any portion of the CSXT system that are based on the Rail Traffic Controller ("RTC") model. In addition to the results of such studies or analyses, please provide the following RTC information:

- a. Identify the version of the RTC computer model used in each study or analysis;
- b. Provide all electronic input files required to run the RTC model including, but not limited to, track input files, train input files, Form A and Form B files; and,
- c. Provide all electronic files generated as output from the RTC model for each study or analysis.

Response:

CSXT specifically objects to this Request as overbroad to the extent that it requires CSXT to produce RTC studies funded and/or owned by third parties, including governmental authorities. Such studies are the proprietary information of the third parties who funded and instigated them. CSXT further objects to this Request to the extent it calls for analyses of passenger operations. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce a list of non-privileged, responsive documents related to RTC studies that were funded and owned by CSXT and that model rail operations, from which TPI may select a reasonable number for production.

REQUEST FOR PRODUCTION NO. 44

Please produce documents which contain the following information for all coal mines that CSXT served or from which CSXT transported coal as an originating, intermediate or terminating carrier that moved in one or more of the SARR States for each year or partial year 2006 to the present:

- a. Geographic location, *i.e.*, city, county and state;
- b. Railroad location, *i.e.*, railroad station name and milepost;
- c. Railroad mine identification number corresponding to the identification numbers contained in CSXT's computerized traffic data, *e.g.*, SPLC (Standard Point Location Code), FSAC (Freight Station Accounting Code) or any other numbering system CSXT uses;
- d. Annual tonnages that CSXT transported from that mine;
- e. Track capacity in feet at each location;

- f. The track configuration at each mine, with both the track that CSXT or another rail carrier owns (or jointly owns) and the mine-owned track clearly identified;
- g. Annual weeks of main operation;
- h. Average tons per car loaded;
- i. Loading capacity (tons per hour); and
- j. If the mine has closed or ceased shipping coal, the date of such closure or of the last shipment.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to TPI's failure to place any time limitation on this request. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession for the period from January 1, 2008 through the filing of the Complaint, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 45

Please provide documents, in a computer-readable format to the extent available, sufficient to show the projected and actual cycle times, and the standard or expected or contractual cycle time for each movement originating, terminating or passing through any of the SARR States for each year or partial year 2008 to the present.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects that, to the extent there is a "contractual" cycle time for-particular movements, TPI could determine that by reviewing applicable contracts and price authorities, which CSXT is willing to make available for review upon reasonable advance request. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged,

responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 46

Please produce the computer model, supporting databases and supporting manuals that are used by CSXT to calculate the expected cycle time for a movement, including all necessary inputs required to run the model for each movement originating, terminating, or passing through any of the SARR States for each year or partial year 2008 to the present.

Response:

CSXT objects to this Request to the extent that it requires CSXT to share “computer model[s], supporting databases and supporting manuals” which may violate the terms of applicable software licenses or agreements, as well as applicable copyright and patent laws. CSXT further objects because TPI’s request that CSXT produce software, manuals, and supporting databases is not reasonably calculated to lead to the discovery of admissible evidence, and is overbroad and unduly burdensome.

REQUEST FOR PRODUCTION NO. 47

Please produce documents that contain the following information for each of the years 2008 to present:

- a. The location(s) where car inspectors inspect trains in the SARR States;
- b. A description of the procedures followed by the car inspectors in preparing for and inspecting the trains;
- c. The total number of car inspections per tour of duty (by day of the week) and the total number of trains inspected per tour of duty (by day of the week), separated between trainload and unit trains and other than trainload or unit trains, for each location identified in response to (a) above;
- d. The number of car inspectors inspecting each train at each location identified in response to (a) above and the time spent by each inspector during each inspection;
- e. The daily or hourly rates of pay, including all additives, for the inspectors identified in response to (d) above;
- f. The number of trains each car inspector identified in response to (a) above inspects during his tour of duty;
- g. The other duties performed by the car inspectors identified in response to (d) above while on duty and not inspecting trains;

- h. The percentage of time the car inspectors identified in response to (d) above spend inspecting trains versus other assignments during their tour of duty;
- i. The materials and supplies used by the car inspectors at each of the locations identified in response to (a) above;
- j. The purchase price of each item identified in response to (i) above; and
- k. The total number of trains and cars inspected at each location identified in response to (a) above..

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 48

For each car inspection location identified in response to Request for Production No. 47, subpart a., please produce documents that demonstrate for each year 2008 to the present:

- a. The number of cars inspected;
- b. The number of cars which are considered "bad ordered" and sent to a repair track in the vicinity of the inspection location;
- c. The number of cars which are considered "bad ordered" and required to be moved to a car repair facility; and
- d. The time required to perform each inspection.

Response:

CSXT incorporates by reference its response to Request for Production No. 47.

REQUEST FOR PRODUCTION NO. 49

Please produce copies of all contracts/agreements with third parties (including but not limited to shippers or receivers) related to the performance of car inspection functions with respect to all trains traversing any portion of the SARR States for each year 2006 to the present.

Response:

CSXT objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time and instead seeks information since 2006. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will make available non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search. CSXT will make individual contracts and agreements available for inspection by TPI counsel and/or consultants at CSXT's headquarters in Jacksonville upon request, which should be made far enough in advance for CSXT to evaluate its contractual obligations to notify other parties to the contract.

REQUEST FOR PRODUCTION NO. 50

Please produce any computer programs or models CSXT uses or has used in the past five years to determine the number and types of railcars required to move its normally expected traffic volumes and the incremental or above-normal volumes moving in peak periods.

Response:

CSXT objects to this Request to the extent that it requires CSXT to share "computer programs or models," which may violate the terms of applicable software licenses or agreements, as well as applicable copyright and patent laws. CSXT objects to the term "normally expected," which is undefined and susceptible to multiple different interpretations. CSXT also objects because TPI's request that CSXT produce computer programs or models is not reasonably calculated to lead to the discovery of admissible evidence, and is overbroad and unduly burdensome. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time.

REQUEST FOR PRODUCTION NO. 51

Please produce documents for each year or partial year 2008 to the present which list by initial and unit number: (a) locomotives used in the SARR States; and (b) if such

locomotives listed in response to (a) above were drawn from a pool, all the locomotives in the pool from which the locomotives were drawn.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by identifying the particular locomotives used in the SARR States and compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 52

Please produce documents, in a computer-readable format to the extent available, which provide the following information for each of the locomotives contained in each of the listings produced in response to Request for Production No. 51:

- a. The locomotive initial and number;
- b. The manufacturer, if purchased;
- c. The lessor, if leased or rented;
- d. Model or type (e.g., SD-40-2);
- e. Horsepower;
- f. Capacity of its fuel tanks (gallons);
- g. Weight;
- h. Date of purchase or lease;
- i. Date first placed into service;
- j. The original cost plus the cost of any additions and betterments;
- k. Financing vehicle (e.g., equipment trust);
- l. Debt rate as a percent;
- m. Financing terms (in years);
- n. Annual depreciation;
- o. Annual depreciation as a percent;
- p. Current salvage value as a percent;
- q. Accrued depreciation;
- r. If leased, the type of lease (i.e., capital, operating, "power by the hour", etc.);
- s. If a capital lease, the capitalized value of the lease by locomotive or group of locomotives (if a group of locomotives, the number of locomotives (by initial and number) and aggregate dollars);

- t. If an operating lease, the quarterly, semi-annual, etc., lease payment by locomotive or group of locomotives covering the term of the lease (if a group of locomotives, the number of locomotives (by initial and number) and aggregate dollars);
- u. If leased or rented under a short-term or "power by the hour" agreement, the minimum annual fixed payment and the use payment (e.g., per kilowatt/hour, per diesel unit mile, etc.) per locomotive, the average annual payment per locomotive, and the annual locomotive unit-miles for each such locomotive, stated separately for coal service and other service; and
- v. The diesel unit-miles traveled each year or partial year from 2008 to the present in all types of service.

Response:

CSXT incorporates by reference its response to Request for Production No. 51.

REQUEST FOR PRODUCTION NO. 53

Please produce all lease or rental agreements, including all supplements and copies of all billings, applicable to each leased or rented locomotive identified in response to Request for Production Nos. 51 and 52.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by identifying the particular locomotives used in the SARR States and compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the request for "all billings" as unduly burdensome and overbroad. CSXT also objects to the request to the extent it calls for production of confidential agreements that may require CSXT to provide notice to other parties before disclosure to TPI. CSXT further objects to the request for "all" lease or rental agreements as overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce data from which TPI can select particular lease or rental agreements for inspection. CSXT will make individual lease and rental agreements available for inspection by TPI counsel and/or consultants at CSXT's headquarters in

Jacksonville upon request, which should be made far enough in advance for CSXT to evaluate and satisfy its contractual obligations to notify other parties to the lease or rental agreement.

REQUEST FOR PRODUCTION NO. 54

Please produce documents which provide the following information for all CSXT helper services operated in the SARR States, separately for each helper service location, for each year or partial year 2008 to the present:

- a. "From" and "To" stations, SPLC's and mileposts where trains are actually helped;
- b. Number and type of locomotives (model and horsepower) involved per help;
- c. Round-trip mileage each locomotive travels per help;
- d. Number of total trains helped per crew assignment;
- e. Minimum train size/weight requiring helper service; and
- f. Crew size per crew assignment.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 55

Please produce documents sufficient to show the following information:

- a. The location(s) where locomotives are fueled in the SARR States;
- b. The actual amount of fuel used by the locomotives identified in response to Request for Production No. 51, either by individual locomotive, or collectively, for the most recent 12 months or calendar year;
- c. The total number of diesel unit miles generated by the locomotives for which fuel consumption data was provided in response to (b) above during the same time period used in response to (b) above.
- d. The method by which CSXT accounts for or records fuel usage for locomotives;
- e. Computer-readable versions (both compiled and non-compiled), including all supporting databases and necessary documentation, of any and all computer programs in CSXT's possession used to estimate the fuel usage of locomotives; and

- f. The same information for all road locomotives on the CSXT system in the same format as that given in the responses to (b), (c), and (e) above.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 56

Please produce all studies, analyses and related documents (including summaries, computer programs and all supporting databases and data), in a computer-readable format to the extent available, pertaining to the fuel consumption or the measurement of the fuel consumption by CSXT trains (or the locomotives used on CSXT trains) moving through any portion of the SARR States for each year or partial year 2008 to the present.

Response:

CSXT specifically objects to TPI's overbroad and unduly burdensome request for "all" "related documents." CSXT also objects to this Request to the extent that it requires CSXT to share "computer programs and all supporting databases," which may violate the terms of applicable software licenses or agreements, as well as applicable copyright and patent laws. CSXT also objects because TPI's request that CSXT produce computer programs and databases is not reasonably calculated to lead to the discovery of admissible evidence, and is overbroad and unduly burdensome. Subject to and without waiving these objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 57

Please produce the train list(s) and train profile(s) showing the scheduled horsepower per ton ("HPT") for all trains operating to, from or within the SARR States. If the train list(s) or train profile(s) are not available, please provide other documents sufficient to show the scheduled HPT for the trains identified above.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 58

Please produce copies of the following documents:

- a. Documents which identify the locomotive tonnage ratings (*e.g.* horsepower per trailing ton) by line segment for CSXT's lines in the SARR States; and
- b. Tractive effort tables or other documents sufficient to show the tractive effort produced by the locomotives used to transport trains through any portion of the SARR States.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 59

Please produce documents, in a computer readable format to the extent available, which show locomotive utilization and locomotive performance (e.g., locomotive unit-miles, locomotive hours running, locomotive hours switching, locomotive hours out-of-service for repairs and locomotive hours stored useable) for each locomotive that CSXT owned or leased for each year or partial year 2008 to the present and that CSXT used in providing transportation service in the SARR States.

Response:

CSXT specifically objects to the vague, ambiguous, and undefined term “locomotive utilization.” CSXT further objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 60

Please produce documents which describe and explain how CSXT assigns locomotives to each train on CSXT's system. If CSXT uses a computer model for this purpose, please produce the model and all supporting data bases and operating manuals necessary to operate the model.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study to “describe and explain how CSXT assigns locomotives to each train on CSXT's system.” CSXT further objects to this Request to the extent that it requires CSXT to share “computer model[s]” and “all supporting databases and operating manuals,” which may violate the terms of applicable software licenses or agreements, as well as applicable copyright and patent laws. CSXT also objects because TPI's request that CSXT produce computer models, manuals, and supporting databases is not reasonably calculated to lead to the discovery of admissible evidence,

and is overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents that describe and explain how CSXT assigns locomotives to each train on CSXT's system, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 61

Please produce any studies performed by or for CSXT from January 1, 2003 to the present related to the increase in locomotives required to handle shipments during seasonal peak traffic periods. In addition, please provide the underlying databases that were used to perform each study.

Response:

CSXT objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time. TPI's request that CSXT produce "underlying databases that were used to perform each study" is also overbroad and unduly burdensome, increasing the scope of this Request exponentially, and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period of 2008 to the present, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 62

Please produce any studies performed by or for CSXT from January 1, 2003 to the present related to the increase in the number of railcars required to handle shipments during seasonal peak traffic periods. In addition, please provide the underlying databases that were used to perform each study.

Response:

CSXT objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time. TPI's request that CSXT produce "underlying databases that were used to perform each study," which exponentially increases the scope of this Request,

is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from 2008 to the filing of the Complaint, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 63

Please produce any locomotive spare margin study performed by CSXT from January 1, 2003 to date that includes (in whole or in part) locomotives used (a) in coal service and/or (b) in other service to, from or through the SARR States. In addition, please produce the underlying databases that were used to perform each study.

Response:

CSXT specifically objects to the vague, ambiguous, and undefined term “locomotive spare margin.” CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time. TPI’s request that CSXT produce “underlying databases that were used to perform each study,” which exponentially increases the scope of this Request, is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from 2008 to the filing of the Complaint, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 64

Please produce any railcar spare margin study performed by or for CSXT from January 1, 2003 to the present that includes (in whole or in part) railcars used: (a) in coal service;

and/or (b) in other service to, from or through the SARR states. In addition, please produce the databases that were used to perform each study.

Response:

CSXT specifically objects to the vague, ambiguous, and undefined term “railcar spare margin.” CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time. TPI’s request that CSXT produce “underlying databases that were used to perform each study,” which exponentially increases the scope of this Request, is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from 2008 to the filing of the Complaint, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 65

Please produce documents or data, in a computer-readable format to the extent available, which provide the following information for each crew district in the SARR States:

- a. Each crew district identified by "from" and "to" stations;
- b. The route miles in each such crew district; and
- c. The number of locomotive units per train by train type (i.e., coal, general freight, automotive, intermodal, etc.) and the extent to which the locomotive units are in a distributed power train configuration

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this

specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 66

Please identify all origins where CSXT pays an outside contractor or third party to load coal trains, and with respect to each such origin, please produce the following for each year 2008 to the present:

- a. Copies of all third party loading crew contracts/agreements, including negotiated rates and associated rate escalation clauses and operating provisions, as well as a description of the service performed by the contractor; and
- b. All records in CSXT's or its loading contractor's possession relating to the contractor's handling of the trains, including but not limited to the time when each train was in the possession or under the control of the loading contractor.

Response:

Subject to and without waiving the General Objections, CSXT responds that it currently does not pay any outside contractor or third party to load coal trains.

REQUEST FOR PRODUCTION NO. 67

Please provide a copy of any CSXT operating rules related to the special handling of hazardous materials (provide the requested information by class of hazardous material), including, but not limited to, rules related to:

- a. Placement of cars containing hazardous materials in a train;
- b. The number and location of buffer cars required, if any, when handling hazardous materials in trains; and
- c. Special routing instructions for trains containing hazardous materials.

Response:

CSXT specifically objects to this Request for Production to the extent it calls for disclosure of Sensitive Security Information ("SSI"). Subject to and without waiving this objection and the General Objections, CSXT states that it handles hazardous materials in

accordance with all applicable regulations, including FRA and PHMSA regulations. CSXT will produce non-privileged, responsive documents in its possession that do not contain SSI, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 68

For each CSXT rail yard referred to in Interrogatory No. 7, please produce documents sufficient to identify switch crew assignments, hump crew assignments, Local Train assignments, the number of cars handled over each hump yard per day and the number of hazardous material cars handled at each hump yard per day which by-pass the hump operation at each yard.

Response:

CSXT specifically objects to this Request for Production to the extent it calls for disclosure of Security Sensitive Information ("SSI"). Subject to and without waiving this objection and the General Objections, CSXT will produce non-privileged, responsive documents in its possession that do not contain SSI, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 69

Please produce documents that contain the information requested by Interrogatory No. 8.

Response:

CSXT specifically objects to this Request for Production to the extent it calls for disclosure of Sensitive Security Information ("SSI"). CSXT specifically objects to this Interrogatory to the extent it calls for disclosure of Sensitive Security Information ("SSI"). Subject to and without waiving this objection and the General Objections, CSXT states that it handles hazardous materials in accordance with all applicable federal regulations, including FRA and PHMSA regulations. CSXT will produce any additional non-privileged, responsive

documents in its possession that do not contain SSI, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 70

Please produce copies of any documents, reports, analyses or studies provided to any Federal or state agencies which discuss or describe CSXT's compliance with regulations for handling, routing or proposed routing of hazardous materials.

Response:

CSXT specifically objects to this Request for Production to the extent it calls for disclosure of Sensitive Security Information ("SSI"). CSXT further objects to this Request as seeking information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. TPI's vague request for any "documents, reports, analyses or studies" created at any time that discuss or describe CSXT's compliance with federal regulations has no conceivable relevance to the issues in this case.

REQUEST FOR PRODUCTION NO. 71

Please produce a copy of CSXT's rules pertaining to train handling, including but not limited to measures for conserving fuel.

Response:

CSXT specifically objects to the vague and undefined term "train handling" and undefined and overbroad term "pertaining to." CSXT further objects to the term "pertaining to" as undefined, vague, ambiguous, and potentially overbroad. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 72

Please produce documents, in a computer-readable format to the extent available, which describe (a) how CSXT determines the dispatch priority given to each train type (*e.g.*, doublestack, priority intermodal, through, general freight, unit coal, *etc.*); and (b) CSXT's methodology for scheduling all trains by train type.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 73

Please produce all agreements between CSXT and Norfolk Southern Railway Company ("NS") or their affiliates, and any amendments thereto, implementing the grant to CSXT of equal access to the MGA coal region in connection with the Conrail control transaction approved by STB in Finance Docket No. 33388 (Decision No. 89, Ordering Paragraph 26), including, but not limited, to agreements governing CSXT's and NS's operations on the MGA lines and any payments made between CSXT and NS related to capital improvements, maintenance expenses and/or operating expenses on the MGA lines.

Response:

CSXT objects to this Request to the extent it calls for disclosure of confidential agreements that may require CSXT to provide notice to other parties before disclosure to TPI. CSXT further objects to the characterization of rights (and responsibilities) it acquired in the Conrail transaction as "grants" – CSXT's rights with respect to former Conrail assets were acquired as part of a bargained-for exchange, and CSXT paid valuable consideration for those rights and other assets. Subject to and without waiving the General Objections, CSXT responds that, after providing any necessary notice to third parties, it will produce non-privileged, responsive documents in its possession, to the extent they exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 74

Please produce all documents prepared from January 1, 2003 to date related to any planned capacity enhancements or capital improvements on CSXT rail lines in the SARR States, including, but not limited, to documents containing estimated or actual construction costs and documents related to changes in rail rates or rail pricing strategy, in connection with any such plans.

Response:

CSXT specifically objects to this Request as overbroad and unduly burdensome as it could literally encompass almost every engineering or marketing document prepared since 2003 in CSXT's possession. This is neither a reasonable scope of time nor a reasonable scope of subject matter. CSXT also objects to the request for "all" documents "related to" changes in rail rates or rail pricing strategy as vague, ambiguous, and overbroad. CSXT further objects to the request for "documents related to changes in rail rates or rail pricing strategy" as irrelevant to this proceeding and having no bearing on whether the Challenged Rates are reasonable under the stand-alone cost procedures established by the Board. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period of 2008 to the filing of the Complaint.

REQUEST FOR PRODUCTION NO. 75

Please produce the following for all joint facility or joint use agreements (including, but not limited, to trackage rights agreements, joint or common ownership agreements and lease agreements and any amendments thereto) between CSXT and any other rail carrier or other entity applicable to any of the railroad lines and/or facilities in the SARR States:

- a. Copies of all agreements (including all amendments and supplements);
- b. Copies of all bills from 2008 to the present (including all supporting documentation and data);
- c. The CSXT density over the joint facility for 2008 to the present; and,
- d. The density of all other rail carriers or entities over the joint facility for 2008 to the present.

Response:

CSXT specifically objects to TPI's request for production of "all" agreements and bills as unduly burdensome and overbroad. CSXT also objects to the request to the extent it calls for production of confidential agreements that may require CSXT to provide notice to other parties before disclosure to TPI. Subject to and without waiving these specific objections or the General Objections, CSXT responds to this Request as follows. CSXT will make a reasonably limited number of joint facility or joint use agreements available for TPI's inspection. CSXT will produce data from which TPI can select particular joint facility and joint use agreements for inspection. CSXT will make individual joint facility and joint use agreements available for inspection by TPI counsel and/or consultants at CSXT's headquarters in Jacksonville upon request, which should be made far enough in advance for CSXT to evaluate and satisfy its contractual obligations to notify other parties to the joint facility or joint use agreement. As for subparts c and d, CSXT responds that it will produce non-privileged, responsive documents related to trailers and containers purchased or leased by CSXI since 2008, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 76

For each year or partial year 2006 to the present, please produce documents that contain the following information, in a computer-readable format to the extent available, for each of the end-of-train telemetry devices ("EOTD") used on any trains that traverse any portion of the SARR States:

- a. The date of purchase;
- b. The original cost and the cost of any additions and betterments;
- c. The debt rate as a percent;
- d. The financing terms (in years);
- e. The annual depreciation;
- f. The annual depreciation rate as a percent;
- g. The salvage value as a percent; and
- h. The accumulated depreciation:

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time and instead seeks information since 2006. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search.

REQUEST FOR PRODUCTION NO. 77

Please produce documents for each year or partial year 2006 to the present that contain the following, in a computer readable format, for each freight car purchased or leased by CSXT (including freight cars currently on order and privately-owned freight cars leased by CSXT that maintain the private owner's car initial and number):

- a. Initial and number;
- b. Manufacturer;
- c. Lessor, if leased;
- d. AAR car type;
- e. Tare weight;
- f. Purchase or order date, if purchased;
- g. Lease or order date, if leased;
- h. Total purchase price, if purchased;
- i. If leased, the type of lease (e.g., capital, operating, etc.) and term;
- j. If leased, the amount and frequency of lease payments;
- k. If purchased, the AFE applicable to each purchased freight car; and
- l. If leased, the lease agreement including all supplements, amendments, exhibits and applicable schedules.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request

as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2006. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search. Also subject to its objections, CSXT will produce a list of responsive leased freight cars, from which TPI may select a reasonable number of leases it wishes to review.

REQUEST FOR PRODUCTION NO. 78

Please produce documents for each year or partial year 2006 to the present that contain the following, in a computer readable format, for each trailer (chassis) or container purchased or leased by CSXT (including trailers/containers currently on order and privately-owned trailers and containers leased by CSXT):

- a. Initial and number;
- b. Lessor, if leased;
- c. Tare weight;
- d. Purchase or order date, if purchased;
- e. Lease or order date, if leased;
- f. Total purchase price, if purchased;
- g. If leased, the type of lease (e.g., capital, operating, etc.) and term;
- h. If leased, the amount and frequency of lease payments;
- i. If purchased, the AFE applicable to each purchased trailer or container; and
- j. If leased, the lease agreement including all supplements, amendments, exhibits and applicable schedules.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by identifying particular trailers or containers and compiling and organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable scope of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that CSXT has not purchased or

leased trailers or containers from 2006 to the filing of the Complaint, and refers TPI to CSXT's response to Request for Production 79.

REQUEST FOR PRODUCTION NO. 79

Please produce documents for each year or partial year 2006 to the present, that contain the following, in a computer readable format if available, for each trailer (chassis) or container purchased or leased by CSXI (including privately-owned trailers or containers leased by CSXI and trailers or containers currently on order):

- a. Initial and number;
- b. Lessor, if leased;
- c. Tare weight;
- d. Purchase or order date, if purchased;
- e. Lease or order date, if leased;
- f. Total purchase price, if purchased;
- g. If leased, the type of lease (e.g., capital, operating, etc.) and term;
- h. If leased, the amount and frequency of lease payments;
- i. If purchased, the AFE applicable to each purchased trailer or container; and
- j. If leased, the lease agreement including all supplements, amendments, exhibits and applicable schedules.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2006. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search. Also subject to its objections, CSXT will produce a list of

responsive leased trailers and containers, from which TPI may select a reasonable number of leases it wishes to review.

REQUEST FOR PRODUCTION NO. 80

Please produce documents sufficient to describe, in detail, all facilities, equipment, infrastructure or other physical assets of any kind, other than those that are described in Request for Production No. 79, that are or have been owned or leased by CSXI, and used by CSXI in connection with the provision of services for which it receives revenue, for each year or partial year 2006 to the present.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it calls for documents that describe "in detail," the "physical assets of any kind . . . that are or have been owned or leased by CSXI." Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 81

Please produce documents for each year or partial year 2006 to the present, that contain the following, in a computer readable format if available, for each Auto Rack Car and/or Auto Rack which attaches to a flat car purchased or leased by CSXT or TDSI (including privately-owned Auto Rack Cars leased by CSXT or TDSI and Auto Rack Cars currently on order):

- a. Initial and number;
- b. Lessor, if leased;
- c. Tare weight;
- d. Purchase or order date, if purchased;
- e. Lease or order date, if leased;
- f. Total purchase price, if purchased;

- g. If leased, the type of lease (e.g., capital, operating, etc.) and term;
- h. If leased, the amount and frequency of lease payments;
- i. If purchased, the AFE applicable to each purchased trailer or container; and
- j. If leased, the lease agreement including all supplements, amendments, exhibits and applicable schedules.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. Subject to and without waiving this specific objection or its General Objections, CSXT responds that it will produce responsive, non-privileged documents related to auto rack cars owned by CSXT, to the extent they exist and can be located in a reasonable search. Also subject to its objections, CSXT will produce a list of responsive leased auto rack cars, from which TPI may select a reasonable number of leases it wishes to review. Further subject to its objections, CSXT responds that TDSI does not own or lease auto rack cars.

REQUEST FOR PRODUCTION NO. 82

Please produce documents sufficient to describe, in detail, all facilities, equipment, infrastructure or other physical assets of any kind, other than those that are described in Request for Production No. 81, that are or have been owned or leased by TDSI, and used by TDSI in connection with the provision of services for which it receives revenue, for each year or partial year 2006 to the present.

Response:

CSXT object to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents or information in a manner different from how they are kept in the ordinary course of business. CSXT also objects to TPI's request for information before 2008 as overbroad and unduly burdensome. CSXT further objects to this Request as overbroad and unduly burdensome in that it calls for documents that describe

“in detail,” the “physical assets of any kind . . . that are or have been owned or leased by TDSI.”

Furthermore CSXT objects to this Request as unduly burdensome and irrelevant to the extent that it requests detailed internal cost data on TDSI operations. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce responsive, non-privileged documents related to assets owned or leased by TDSI to the extent they exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 83

Please produce documents for each year or partial year 2006 to the present, that contain the following, in a computer readable format if available, for each freight car purchased or leased by TRANSFLO (including privately-owned freight cars leased by TRANSFLO and freight cars currently on order):

- a. Initial and number;
- b. Lessor, if leased;
- c. Tare weight;
- d. Purchase or order date, if purchased;
- e. Lease or order date, if leased;
- f. Total purchase price, if purchased;
- g. If leased, the type of lease (e.g., capital, operating, etc.) and term;
- h. If leased, the amount and frequency of lease payments;
- i. If purchased, the AFE applicable to each purchased trailer or container; and
- j. If leased, the lease agreement including all supplements, amendments, exhibits and applicable schedules.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents or information in a manner different from how they are kept in the ordinary course of business. CSXT also objects to TPI's request for information before 2008 as overbroad and unduly burdensome. Furthermore CSXT objects to this Request as unduly broad and burdensome. CSXT further objects to this Request as irrelevant to the extent that it requests detailed data on TRANSFLO owned or leased freight cars. CSXT also objects to this Request to the extent that is duplicative of Request No. 77.

Materials produced by CSXT in response to Request No. 77 are also responsive to this Request. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce lists and information sufficient to identify rail cars purchased or leased by CSXT from 2008 through the filing of the Complaint, to the extent they exist. TPI may use the list of leased rail cars to select a reasonable number of leased cars whose leases CSXT will make available for TPI's review. Further subject to its objections, CSXT states that TRANSFLO does not own or lease freight rail cars.

REQUEST FOR PRODUCTION NO. 84

Please produce documents sufficient to describe, in detail, all facilities, equipment, infrastructure or other physical assets of any kind, other than those that are described in Request for Production No. 83, that are or have been owned or leased by TRANSFLO, and used by TRANSFLO in connection with the provision of services for which it receives revenue, for each year or partial year 2006 to the present.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. CSXT further objects to the overbroad and unduly burdensome request to describe "in detail . . . all facilities, equipment, infrastructure, or other physical assets of any kind." CSXT also object to this Request as unduly burdensome and irrelevant to the extent that it requires detailed internal cost data on TRANSFLO operations. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce responsive, non-privileged documents to the extent they exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 85

Please produce all railcar repair and maintenance records, reports, databases and related documents which include or record rail car repair and maintenance expenses for each year or partial year 2008 to the present, including but not limited to all input data to

schedules 415 and 755 of CSXT's R-1, and the total rail car-miles corresponding to these repair and maintenance expenses, in a computer readable format to the extent possible, for all freight cars in the CSXT system. To the extent that these records, reports and databases do not include all car repair and maintenance amounts reported in R-1 Schedule 410, please identify the expenses that are excluded.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the request for production of "all" records as overbroad and unduly burdensome. CSXT also objects to TPI's overbroad and unduly burdensome request for all "related documents." Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession that can be located in a reasonable search, to the extent that they exist.

REQUEST FOR PRODUCTION NO. 86

For each year 2008 to the present, please produce documents which contain the following information (in a computer-readable format, if available) with respect to each shipper-owned and shipper-leased railcar and each intermodal and automotive railcar provided by a third party moving over any part of the CSXT system located in the SARR States:

- a. Initial and number of the car;
- b. The AAR car type;
- c. The length, tare weight, load capacity (number of containers, trailers or automobiles) and load limit (tons) of the car (for intermodal and automotive cars only);
- d. The cost to CSXT for use of the car;
- e. The terms of any mileage allowance agreement covering the car;
- f. Whether the car is subject to a zero-based mileage agreement;
- g. Whether the car hire paid on the car is subject to refund of the payments under certain contractual conditions; and
- h. The year of manufacture of the car.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also objects to this Request as overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT refers TPI to Schedule 414 in CSXT's R-1.

REQUEST FOR PRODUCTION NO. 87

Please produce all railcar maintenance agreements with outside contractors, including all supplements, attachments, exhibits and schedules, for each year or partial year 2006 to the present, for all the cars on CSXT's system. Also provide the documents identifying (a) the dollar amount paid for each service performed under the agreement by individual car or by car type; and (b) the number of car-miles corresponding to the amounts referenced in Request for Production No. 87, subpart a.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also objects to this Request as overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce a list of maintenance agreements and will make individual maintenance agreements available for inspection by TPI counsel and/or consultants at CSXT's headquarters in Jacksonville upon request, which should be made far enough in advance for CSXT to evaluate its contractual obligations to notify other parties to the contract.

REQUEST FOR PRODUCTION NO. 88

Please produce all CSXT locomotive maintenance and repair records and/or reports and related documents for each year or partial year 2006 to the present, which provide locomotive maintenance, repair and overhaul expenses by locomotive or locomotive type or series (or by other basis in which records are kept) and the total locomotive unit-miles

corresponding to these maintenance, repair and overhaul expenses for the locomotives identified in response to Request for Production No. 52 above. To the extent that these records and/or reports do not include all locomotive repair, maintenance, and overhaul amounts reported in R-1 Schedule 410, please identify those expenses that are not included.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 89

Please produce all locomotive maintenance agreements, including all supplements, attachments, exhibits and schedules, with outside contractors and provide, for each year or partial year 2006 to the present for all locomotives in the CSXT fleet under such maintenance agreements: (a) the amount paid for each locomotive or by locomotive type in total and broken down by each service performed under the agreement; and (b) the number of locomotive unit miles corresponding to the amounts listed above.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also objects to the request to the extent it calls for production of confidential agreements that may require CSXT to provide notice to other parties before disclosure to TPI. CSXT further objects to the request for "all" locomotive maintenance agreements as overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will make a reasonably limited number of locomotive maintenance agreements available for TPI's

inspection. CSXT will produce data from which TPI can select particular locomotive maintenance agreements for inspection. CSXT will make individual locomotive maintenance agreements available for inspection by TPI counsel and/or consultants at CSXT's headquarters in Jacksonville upon request, which should be made far enough in advance for CSXT to evaluate and satisfy its contractual obligations to notify other parties to the agreement.

REQUEST FOR PRODUCTION NO. 90

Please produce documents that show in detail all items of expense and the associated dollar amount of each expense item included in CSXT's R-1 Annual Report to the STB Schedule 410, Column (c), Lines 202, 403 and 411, for years 2008 and 2009.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 91

Please identify all locations in the SARR States where CSXT or a third party/contractor acting for or on behalf of CSXT performs fueling of locomotives, and produce documents sufficient to show the following information with respect to locomotive fueling at each location:

- a. The source(s) of the fuel, including the name and location of the vendor(s) who provide the fuel to CSXT and the refinery(ies) or other location from which the fuel is obtained;
- b. The method and cost of transporting and dispensing the fuel from the refinery(ies) or other locations from which the fuel is obtained to the location where the fueling of locomotives is performed;
- c. The method by which fuel is dispensed into locomotives, *i.e.* from fixed fueling platforms or by direct-to-locomotive (tanker truck) service; and
- d. A description of the facilities and equipment (including but not limited to fuel storage tanks) at each location where CSXT has fixed fueling platforms

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 92

Please produce copies of all contracts/agreements with third parties related to the performance of locomotive fueling functions for all locomotives that are used on any portion of the CSXT system located in the SARR States.

Response:

Subject to and without waiving the General Objections, CSXT responds that it will make available for inspection non-privileged, responsive documents in CSXT's possession, to the extent that they exist. CSXT will produce data from which contracts with third parties for locomotive fueling can be identified. CSXT will make individual contracts available for inspection by TPI counsel and/or consultants at CSXT's headquarters in Jacksonville upon request, which should be made far enough in advance for CSXT to evaluate and fulfill its contractual obligations to notify other parties to the contract.

REQUEST FOR PRODUCTION NO. 93

For each of the years 2008 to the present, please produce the detailed annual and quarterly Wage Forms A and B that support the summary Wage Forms A and B provided to the STB.

Response:

CSXT specifically objects to TPI's vague and ambiguous request that CSXT provide "Wage Forms A and B" that support the "Wage Forms A and B" provided to the STB. Subject to and without waiving the General Objections, CSXT responds that it will produce the annual Wage Forms A and B it has provided to the STB.

REQUEST FOR PRODUCTION NO. 94

Please produce for each year or partial year 2008 to the present documents (in a computer readable format) which show for each CSXT individual locomotive engineer, conductor, dispatcher and equipment inspector, the number of shifts worked per year, their length of employment, and their annual compensation.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as calling for sensitive, highly confidential, and private information about individuals' compensation. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 95

Please produce documents sufficient to show the applicable wage rates for CSXT's maintenance of way employees by job classification for each year 2008 to the present.

Response:

Subject to and without waiving the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 96

Please produce documents showing the amount(s) paid by CSXT to a recruitment firm or firms for executive search service in each of the years 2006 to the present. The documents should include the amount paid by individual, the position of the individual hired and the basis for the recruitment firm's fee schedule. As used in this Request, the term "executive" means those employees so defined or grouped in CSXT's Wage Forms A and B.

Response:

Subject to and without waiving the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 97

Please provide documents sufficient to show CSXT's existing maintenance-of way plan and staffing in the SARR States including the maintenance-of-way districts and/or crews employed by CSXT to maintain the (a) track, (b) signals and communications facilities, (c) bridges and (d) all other facilities and structures in the SARR States, the number of CSXT employees by job classification presently assigned to each maintenance-of-way district or crew on both a permanent and a seasonal basis, and any changes in the maintenance districts, crews, and number and classification of employees that have occurred since January 1, 2003.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome by failing to limit the Request to a reasonable scope of time or information requested to the extent it calls for "any changes in the maintenance districts, crews, and number and classification of employees that have occurred since January 1, 2003." CSXT also objects to this Request as vague and ambiguous to the extent that it calls for "any changes." CSXT will interpret this Request as calling for information about significant general changes to the designations of the maintenance and crew districts, including the numbers and

classifications of employees assigned to these districts, to the extent such changes to classifications are specified in the district designations. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents created from 2008 to the filing of the Complaint in its possession, to the extent that they exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 98

For maintenance of way (including inspection of bridges, tunnels and highway crossings) and/or construction of or on CSXT lines in the SARR States performed by contractors for the period from 2007 to the present, please produce copies of all bills for services, documents which contain a description of the line location of the contract inspection, repairs (including vegetation control, rail grinding and other maintenance items) and/or construction, and the details of the work performed, including labor and materials. If CSXT does not maintain copies of any of these documents, produce whatever documents CSXT does maintain or has available to it describing the costs incurred by CSXT and the details of the work performed, in a computer readable form if applicable (including all necessary documentation).

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome to the extent the Request calls for “copies of all bills for services.” CSXT further objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2007. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will make a reasonably limited number of maintenance of way or construction bills available for TPI’s inspection. CSXT will produce data from which TPI can select particular maintenance of way or construction bills for inspection. CSXT will make individual

maintenance of way or construction bills available for inspection by TPI counsel and/or consultants at CSXT's headquarters in Jacksonville upon request.

REQUEST FOR PRODUCTION NO. 99

Please provide documents showing the amounts paid by CSXT for training employees by year from 2007 to the present and the number of employees trained including, but not limited to, training employees hired for each of the following positions:

- a. Experienced locomotive engineers;
- b. Experienced locomotive conductors;
- c. Locomotive conductors training to become engineers;
- d. Novice conductors;
- e. Train dispatchers;
- f. Information technology programmers;
- g. Supervisors of maintenance operations;
- h. Maintenance crew members; and
- i. Equipment inspectors.

The amounts paid by CSXT for training employees should include, but not be limited to, wages paid per employee during classroom training, wages paid per employee during field or on the job training, fringe benefits paid during classroom training, fringe benefits paid during field or on the job training, costs for classroom training per employee, costs for on the job training or field training per employee, expenses for room and board during classroom training and during field training per employee. Also please provide the number of weeks of classroom training required for each type of employee and the number of weeks of on the job or field training required for each type of employee.

Response:

CSXT objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2007. Subject to and without waiving this objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search.

REQUEST FOR PRODUCTION NO. 100

Please produce documents showing the ad valorem taxes that CSXT paid for each year 2008 to the present to each of the SARR States, together with documents showing the total route-miles and total track-miles CSXT owned or owns in the SARR States for each

year 2008 to the present. Also, produce documents showing how the amount of ad valorem taxes due were calculated by state in each year.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to TPI's request for "documents showing how the amount of ad valorem taxes due were calculated by state in each year" to the extent that it requests publicly available information and information that is not within CSXT's possession, custody, or control. Subject to and without waiving this objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 101

Please provide documents for each year or partial year 2008 to the present which provide CSXT's loss and damage costs separately for all commodities CSXT carries on a system-wide basis:

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 102

Please provide information related to any liability expense incurred as a result of CSXT's handling hazardous materials for each year 2007 to the present. For each liability expense incurred, please provide the following:

- a. The total amount of the liability expense;
- b. The STCC of hazardous material involved with the incurrence of the expense;
- c. The number of rail cars involved with the incurrence of the expense; and
- d. Any reimbursement of all or a portion of the liability expense, or other reimbursement which offset all or a portion of the liability expense received by CSXT from any third party.

Response:

CSXT objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2007. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search.

REQUEST FOR PRODUCTION NO. 103

Please provide information related to any additional operating or administrative expenses incurred by CSXT for each year from 2007 to the present as a result of handling hazardous materials, including, but not limited to, items such as switching expenses, insurance expenses, station clerical, car cleaning expenses, accident clean-up expenses and/or billing expenses. For each expense identified, please provide:

- a. The total amount of the annual expense for each year;
- b. The class or classes of hazardous material to which the expense applies; and
- c. The number of annual carloads handled each year to which the expense applies.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request

as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2007. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search.

REQUEST FOR PRODUCTION NO. 104

Please provide documents identifying the maintenance-of-way equipment owned or leased by CSXT that is assigned to the maintenance-of-way districts identified in response to Request for Production No. 97. For each piece of owned equipment, please provide the original cost and the year purchased. For each piece of leased equipment, please provide a copy of the lease and the lease payment schedule. For each piece of equipment, either leased or owned, please provide documents that show the annual cost of maintenance and fueling.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 105

Please produce the following agreements:

- a. The "operating agreement" between CSXT and CSXI for reimbursement of "an amount that approximates actual costs" as described in CSXT's 2009 Class I Annual Report Form R-1, page 15;
- b. The agreement between CSXT and TDSI related to the "charges from TDSI for services to the Respondent at automobile ramps" as described in CSXT's 2009 Class I Annual Report Form R-1, page 15;
- c. The agreement between CSXT and TRANSFLO related to the "charges from

TRANSFLO for services to the Respondent at bulk commodity facilities" that are "calculated based on direct costs" as described in CSXT's 2007 Class I Annual Report Form R-1, page 14C;

d. The agreement between CSXT and CSX Technology related to the "data processing charges" that are "based on a mark-up of direct costs" as described in CSXT's 2009 Class I Annual Report Form R-1, page 15; and

e. The agreement between CSXT and CSX Corporation related to the "management service fee charged by CSX as compensation for certain corporate services provided to Respondent" that are "calculated as a percentage of the Respondent's revenue" as described in CSXT's 2009 Class I Annual Report Form R-1, page 15.

Response:

Subject to and without waiving its General Objections, CSXT responds that it will produce responsive, non-privileged documents, to the extent they exist and can be located and produced in a reasonable search.

REQUEST FOR PRODUCTION NO. 106

Please produce documents identifying and explaining for each year or partial year 2008 to the present:

a. The procedures by which CSX Corporation develops bills or invoices to CSXT for the "management service fee" referenced in CSXT's 2009 Class I Annual Report Form R-1, page 15;

b. The procedures and calculations underlying the development of the "percentage of Respondent's revenue" referenced in CSXT's 2009 Class I Annual Report Form R-1, page 15; and

c. The STB account(s) in which CSXT records the payments made to CSX Corporation for the "management service fee" referenced in CSXT's 2009 Class I Annual Report Form R-1, page 15.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. Subject to and without waiving this specific objection or its General Objections, CSXT responds that it will produce

responsive, non-privileged documents in its possession, to the extent they exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 107

Please produce documents identifying and explaining for each year or partial year 2008 to the present:

- a. The procedures by which CSX Technology develops bills or invoices to CSXT for the "data processing charges" referenced in CSXT's 2009 Class I Annual Report Form R-1, page 15;
- b. A detailed description of the services provided by CSX Technology to CSXT;
- c. CSX Technology's "direct costs" referenced in CSXT's 2009 Class I Annual Report Form R-1, page 15;
- d. The procedures and calculations underlying CSX Technology's development of the "mark-up of direct costs" referenced in CSXT's 2009 Class I Annual Report Form R-1, page 15; and
- e. The STB account(s) in which CSXT records the payments made to CSX Technology for the "data processing charges" referenced in CSXT's 2009 Class I Annual Report Form R-1, page 15.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. CSXT also objects to the term "the procedures by which CSX Technology develops the bills or invoices" as vague and ambiguous. CSXT further objects to this Request as unduly burdensome. CSXT also objects to this Request as seeking irrelevant information, to the extent it seeks CSX Technology internal cost data. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce responsive, non-privileged documents sufficient to identify

the services provided and amounts charged by CSX Technology to CSXT, to the extent they exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 108

Please produce documents identifying and explaining the procedures by which CSXT develops the bills or invoices to CSXI, TDSI and TRANSFLO for rail-related transportation services. For each component of each CSXT bill or invoice, please identify and produce documents identifying the STB accounts in which CSXT records the payments received from CSXI, TDSI and TRANSFLO, as well as the following information for CSXI, TDSI and TRANSFLO for each year or partial year 2008 to the present:

- a. Total revenues;
- b. Amounts received to cover transloading costs;
- c. Amounts received to cover payments for costs associated with other transportation modes, e.g., over-highway truck costs, water vessel costs, etc.;
- d. Amounts paid to CSXT
- e. Overhead and administrative costs; and
- f. Margin or profit.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. CSXT also objects to the Request for documents "explaining the procedures by which CSXT develops the bills or invoices" as vague and ambiguous. CSXT further objects to the unduly burdensome nature of this Request which instructs CSXT to inspect "each component of each CSXT bill or invoice" to provide additional information to TPI. CSXT also specifically objects to subpart (a) as irrelevant to matters at issue in this case. Furthermore CSXT objects to subparts (b), (c), (e), and (f) of this Request as unduly burdensome and irrelevant to the extent that they request detailed financial and internal cost data on non-CSXT operations. Any potential relevance of the requested information is outweighed by the burden that would be incurred in attempting to find the detailed

information requested in the records of affiliated companies. CSXT further objects to subparts (b), (c), and (e) as vague and ambiguous. For purposes of responding to this Request, CSXT will construe subparts (b) and (c) as seeking information concerning the costs to the respective affiliate for loading and unloading, and the respective affiliate's costs associated with over-highway trucks or water vessels. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce non-privileged documents that are responsive to subparts (a) through (d) to the extent they exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 109

Please provide documents sufficient to show the following for each intermodal yard or terminal served by CSXI in the SARR States:

- a. Each asset owned or leased by CSXT;
- b. Each asset owned or leased by CSXI;
- c. Each asset owned or leased by an entity other than CSXT or CSXI; and
- d. All acquisition information and lease or other use payment information for each year or partial year 2008 to the present.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. Furthermore CSXT objects to this Request as unduly burdensome and irrelevant to the extent that it requests detailed data on non-CSXT owned or leased assets at each intermodal yard or terminal served by CSXI in the United States. Any potential relevance of the requested information is outweighed by the burden that would be incurred in attempting to find the detailed information requested in the records of

CSXI. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce responsive, non-privileged documents related to assets owned or leased by CSXT or CSXI at intermodal yards or terminals served by CSXI in the United States, to the extent they exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 110

Please provide documents sufficient to show the following for each Automotive Distribution Center served by TDSI in the SARR States:

- a. Each asset owned or leased by CSXT;
- b. Each asset owned or leased by TDSI;
- c. Each asset owned or leased by an entity other than CSXT or TDSI; and
- d. All acquisition information and lease or other use payment information for each year or partial year 2008 to the present.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. Furthermore CSXT objects to this Request as unduly burdensome and irrelevant to the extent that it requests detailed data on non-CSXT owned or leased assets. Any potential relevance of the requested information would be outweighed by the burden that would be incurred in attempting to find the detailed information requested in the records of TDSI. CSXT further objects to subpart d as vague and ambiguous. CSXT also objects to this Request as overbroad and unduly burdensome to the extent it seeks "all" acquisition or lease information or other use payment information. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce responsive, non-privileged documents related to assets owned or leased by CSXT or

TDSI at automotive distribution centers served by TDSI in the SARR States, to the extent they exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION 111

Please provide documents sufficient to show the following for each bulk terminal served by TRANSFLO in the SARR States:

- a. Each asset owned or leased by CSXT;
- b. Each asset owned or leased by TRANSFLO;
- c. Each asset owned or leased by an entity other than CSXT or TRANSFLO; and
- d. All acquisition information and lease or other use payment information for each year or partial year 2008 to the present.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. Furthermore CSXT objects to this Request as unduly burdensome and irrelevant to the extent that it requests detailed data on non-CSXT owned or leased assets at each bulk terminal served by TRANSFLO in the SARR States. Any potential relevance of the requested information is outweighed by the burden that would be incurred in attempting to find the detailed information requested in the records of TRANSFLO. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce responsive, non-privileged documents related to assets owned or leased by CSXT or TRANSFLO at bulk terminals served by TRANSFLO, to the extent they exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION 112

Please produce documents sufficient to show the location, size (including square footage, number and lengths of tracks, capacity, etc.), components (such as equipment and machinery), original cost and year built for each facility located on any portion of

CSXT's system in the SARR States that falls within each of the following categories of facilities:

- a. Roadway maintenance facilities;
- b. Locomotive maintenance facilities;
- c. Locomotive servicing facilities;
- d. Administrative facilities;
- e. Rail yards;
- f. Dispatch centers;
- g. Freight car repair and maintenance facilities;
- h. Scales;
- i. Wastewater treatment plants;
- j. Snowshed facilities;
- k. Train, yard and engineman facilities;
- l. Automotive Distribution Centers;
- m. Intermodal terminals and yards;
- n. River transload facilities; and
- o. Lake transload facilities.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it seeks information on "original cost" without any date limitation. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION 113

Please provide for each year 2008 to the present for each facility identified in response to Request For Production No. 112, subparts (l), (m), (n) and (o):

- a. The annual costs to operate each facility separated by function; and
- b. The annual throughput of each facility (e.g., automobiles, containers, trailers, carloads, etc.).

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION 114

Please produce documents supporting the security procedures at each location identified in response to Interrogatory Nos. 7 (i), 13 (f), 15 (d) and 17 (f) including, but not limited to, the following for each year or partial year 2006 to the present:

- a. Staffing requirements by job classification;
- b. Material requirements;
- c. Transportation requirements;
- d. Facility requirements;
- e. Other requirements not included in a, b, c or d above;
- f. The annual costs incurred for the security at each location broken down by category of expense, e.g., labor, materials, purchased services, etc.;
- g. The entity responsible for paying the annual security costs at each location, e.g., CSX Corporation, CSXT, CSXI, TDSI, TRANSFLO, etc., and the portion paid by each entity in dollars or percentages; and
- h. The STB accounts where any costs incurred by CSXT are recorded.

Response:

CSXT specifically objects to this Request for Production to the extent it calls for disclosure of Sensitive Security Information ("SSI"). Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-SSI, non-

privileged, responsive documents in its possession to the extent that such documents exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION 115

Please produce documents sufficient to describe, in detail, all personnel employed by CSXI, TDSI, and/or TRANSFLO in connection with the provision of services for which each receives freight revenue, for each year or partial year 2008 to the present, including but not limited to each employee's position and responsibilities; annual compensation (including all benefits); and for employees who do not dedicate 100% of their on-duty time to the provision of services described herein, the percentage of each such employee's time that is so dedicated.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. CSXT further objects to the overbroad and unduly burdensome request to describe "all" personnel "in detail." CSXT objects to the term "in connection with the provision of services" as vague and overbroad. CSXT also objects to this Request as unduly burdensome and irrelevant to the extent that it requests detailed internal cost data on non-CSXT operations. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce responsive, non-privileged documents responsive to this request to the extent they exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 116

Please produce documents sufficient to describe, in detail, all services purchased by CSXI, TDSI and/or TRANSFLO from third parties that are necessary or incidental to the provision of services by each for which each receives revenue, including but not limited to all amounts paid for such third party services, for each year or partial year 2008 to the present.

Response:

CSXT objects to the overbroad and unduly burdensome requests to describe “all services” “in detail.” Subject to and without waiving this objection or its General Objections, CSXT responds that it will produce responsive, non-privileged documents, to the extent they exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 117

For each company identified as providing outsourced services in response to Interrogatory No. 18, please provide documents which describe the services outsourced, the fees paid for the outsourced services, and the analyses which developed the estimated and/or actual savings realized by CSX and each of its subsidiaries from such outsourcing.

Response:

CSXT specifically objects to this Request for the “analyses which developed the estimated and/or actual savings realized by CSX and each of its subsidiaries from such outsourcing” as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 118

Please produce all documents relating to any contribution or payment by any governmental or quasi-governmental entity (including, without limitation, AMTRAK) for construction, upgrading and/or maintenance of any CSXT track, facility or structure (including bridges, at-grade highway crossings and grade separated crossings) and/or operating expenses on any of CSXT's lines located in the SARR States.

Response:

CSXT specifically objects to this Request as overbroad and unduly burdensome in that it seeks “all” documents without any date limitation. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will make a reasonably limited

number of agreements with governmental or quasi-governmental entities responsive to this request available for TPI's inspection. CSXT will produce data from which TPI can select particular agreements for inspection. CSXT will make individual agreements available for inspection by TPI counsel and/or consultants at CSXT's headquarters in Jacksonville upon request.

REQUEST FOR PRODUCTION NO. 119

Please provide documents containing the following information separately for ultrasonic rail testing and track geometry testing:

- a. The cost per mile, or other applicable unit of measure, for each year 2008 to the present; and
- b. CSXT's specifications for the frequency of such testing.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. Subject to and without waiving this objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 120

Please produce copies of the most current land valuation maps for CSXT rail lines located in the SARR States, and all documents (including but not limited to deeds or other instruments of grant or conveyance) related to the parcels identified on those maps.

Response:

CSXT objects to this Requests as overbroad and unduly burdensome, as it calls for production of thousands of voluminous land valuation maps as well as "all" documents "related to" identified parcels. Subject to and without waiving this objection or the General Objections,

CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 121

Please produce documents identifying all donated rights of way and/or land grants (including easements) obtained by CSXT or CSXT's predecessors in connection with the construction of any rail lines or facilities located in the SARR States. The documents provided should include the following for each donated or easement land parcel:

- a. The CSXT parcel number;
- b. The exact location of the parcel, including county and state;
- c. Valuation section and map number;
- d. Original railroad acquiring the parcel;
- e. Type of instrument and/or title, e.g. easement, right-of-way deed, quit claim deed, condemnation, grant, etc.
- f. The size of the parcel in square feet or acres;
- g. The date of the transaction;
- h. The names of the parties to the transaction; and
- i. Any dollar amount associated with the transaction.

Response:

CSXT objects to this Request as overbroad and unduly burdensome, as it calls for production of documents identifying "all" donated rights of way and easements. Subject to and without waiving this objection and the General Objections, CSXT responds that it will make a reasonable number of documents responsive to this request available for inspection by TPI counsel and/or consultants at CSXT's headquarters in Jacksonville, if TPI identifies in advance a reasonably limited number of particular locations for which it wishes to review documents.

REQUEST FOR PRODUCTION NO. 122

Please produce all documents related to any sale, appraisal, abandonment or acquisition of land (improved and unimproved) that CSXT completed in the SARR States, including

but not limited to documents showing the location of the parcel, size of the parcel, the valuation of the parcel by CSXT, the sale or acquisition price, a description of any improvements to the parcel, the value of any improvements, the date of sale, and any characteristics of the parcel such as land use, utilities, access and topography.

Response:

CSXT specifically objects to this Request as overbroad and unduly burdensome in that it seeks "all" documents without any date limitation and that it seeks all documents "related to" any sale, appraisal, abandonment or acquisition. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce a list of sales, appraisals, abandonments and land acquisitions from which TPI can select a reasonably limited number of records for inspection. CSXT will make individual records available for inspection by TPI counsel and/or consultants at CSXT's headquarters in Jacksonville upon request.

REQUEST FOR PRODUCTION NO. 123

Please produce documents sufficient to show the following for construction projects that CSXT has undertaken since January 1, 2007:

- a. Construction standards, details and project specifications, including but not limited to: track structures and designs; bridges; culverts; yard and roadway buildings; fueling facilities; maintenance facilities and waste water treatment facilities;
- b. Whether or not the project was performed "under traffic", i.e., traffic continued to move through the construction area;
- c. Estimating procedures for track construction projects; and
- d. Estimating procedures for non-track construction projects.

Response:

CSXT specifically objects to this Request as overbroad and unduly burdensome in that it seeks documents dating from 2007. Subject to and without waiving this objection and the General Objections, CSXT responds that, as for subparts a and b, it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search. As for subparts c and d, CSXT responds that there are no

standard estimating procedures for track construction projects or non-track construction projects. Each track and non-track construction project is affected by a variety of factors, and there are no "standard" procedures for estimating each unique project.

REQUEST FOR PRODUCTION NO. 124

Please produce all of CSXT's price list books governing prices for construction and maintenance materials (including but not limited to weights of rail from 115 lb to 141 lb, turnouts, ties, fasteners, lubricators, plant and field welds, fencing, roadway signs, track geometry cars, hot bearing and dragging equipment detectors, and related tools), or other documents utilized by CSXT's engineering personnel for estimating costs of maintenance and construction projects for each year or partial year 2007 to the present. To the extent that the charges for transportation and delivery of materials are not included in the prices shown, please produce documents sufficient to show such charges for all materials.

Response:

CSXT specifically objects to this Request as overbroad and unduly burdensome in that it seeks documents dating from 2007. CSXT further objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 through the filing of the Complaint, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 125

Please produce documents sufficient to show the following with respect to grading construction activities undertaken or proposed at any time, or currently ongoing, on any portion of CSXT's system located in SARR States:

- a. Number of cubic yards of excavation of:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material;
- b. Number of cubic yards of embankment of:
 - i. Common earth;

- ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material;
- c. Number of cubic yards of borrow of:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material;
- d. Grading construction data for each construction specification measured by CSXT including without limitation, roadbed width, side slope ratio, track center distance, presence of access roads, impact of grading activities on right-of-way width, use of geotextiles, use of water, soil stabilization, and width and depth of side ditches;
- e. Number of route miles, separated between single track main, double track main, triple track main, etc., corresponding to the cubic yard information described in paragraphs (i) through (iv) of Subparts (a), (b) and (c) of this Request;
- f. Number of track-miles corresponding to the cubic yards in paragraphs (i) through (iv) of Subparts (a), (b) and (c) of this Request;
- g. All of the different types of equipment (and the associated tasks) used to:
 - i. Excavate common earth;
 - ii. Excavate loose rock;
 - iii. Excavate solid rock;
 - iv. Excavate unclassified material; and
 - v. Obtain borrow material;
- h. Linear feet of pipe installed for lateral drainage;
- i. Number of cubic yards of rip rap placed for the protection of the roadway;
- j. Location, type and quantity of retaining walls;
- k. Construction method, including but not limited to the number of cubic yards of masonry or other similar material, used for retaining walls;
- l. Number of acres cleared;
- m. Number of acres grubbed; and
- n. Number of acres seeded.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it seeks documents related to any grading construction activities “undertaken or proposed” at “any time” on “any portion of CSXT’s system.” Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession for the period from January 1, 2008 to the filing of the Complaint, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 126

To the extent CSXT incurred any of the following expenses during the years 2007 to the present, please produce documents sufficient to show the costs CSXT incurred during each year for the following:

- a. CSXT's cost per cubic yard of excavation for:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material;
- b. CSXT's cost per cubic yard of embankment for:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material;
- c. CSXT's cost per cubic yard of borrow for:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material;
- d. CSXT's cost per cubic yard of rip rap (installed), separated between material and labor;

- e. CSXT's unit cost for each material type used for retaining walls, separated between material and labor;
- f. CSXT's cost per acre for clearing timber and any credits reflecting the sale of timber;
- g. CSXT's cost per acre for grubbing;
- h. CSXT's cost per acre for seeding;
- i. CSXT's cost per acre for weed spray (including necessary chemicals);
- j. CSXT's cost per acre or per mile for brush cutting; and
- k. CSXT's cost per square yard for geotextile fabric.

Response:

Subject to and without waiving the General Objections, CSXT incorporates by reference its response to Request for Production No. 125.

REQUEST FOR PRODUCTION NO. 127

Please produce documents sufficient to show culvert/drainage pipe locations (*i.e.*, railroad milepost), size (diameter), length, height of cover, number of tracks crossed, type, and cost of material and installation for each, for CSXT's lines located in the SARR States.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it seeks documents without any date limitation. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 128

Please produce documents sufficient to show the following information with respect to ballast and sub-ballast used on CSXT's system for each of the years 2007 to the present:

- a. The average cost per cubic yard for ballast, by type;
- b. The average cost per cubic yard for the transportation and handling of ballast;
- c. The average length of haul represented by the value(s) in subpart (b) above;
- d. The average cost per cubic yard for sub-ballast, by type;
- e. The average cost per cubic yard for transportation and handling of sub-ballast;
- f. The average length of haul represented by the value(s) in Subpart (e) above;
- g. The names and locations of all quarries supplying such ballast or sub-ballast; and
- h. The unit prices from all quarries listed in response to Subpart (g).

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome, in part because it seeks documents dating from 2007. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession created from 2008 through the filing of the Complaint, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 129

Please produce documents sufficient to show the following for each construction and rehabilitation project which exceeded \$500,000 in cost and was completed by CSXT, or an outside contractor acting on CSXT's behalf, since January 1, 2007:

- a. The date the project was started;
- b. The date the project was completed;
- c. Whether the project was new construction or rehabilitation;
- d. Whether or not the project was performed "under traffic", i.e., traffic continued to move through the construction area;
- e. A complete copy of the Authorization for Expenditure ("AFE") and description of all columns and data contained with the AFEs;
- f. A complete copy of the Roadway Completion Report or any successor document; and

- g. All invoices underlying each AFE and/or Roadway Completion Report.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce a list of AFEs from which TPI can select a reasonable number of AFEs for projects which exceeded \$500,000 for production.

REQUEST FOR PRODUCTION NO. 130

Please produce documents, including but not limited to AFEs, construction plans, engineering estimates, bid tabs, contractor invoices, and construction specifications for any projects that a carrier other than CSXT has undertaken in the SARR States since January 1, 2007 for which CSXT paid for some or all of the project, including, but not limited to, any construction within the boundaries of Conrail Shared Assets Areas.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and burdensome. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce a list of AFEs from which TPI can select a reasonable number for production.

REQUEST FOR PRODUCTION NO. 131

Please produce documents sufficient to show the following information for each tunnel located on any portion of the CSXT system in the SARR States:

- a. Location, i.e., line segment name and number;

- b. Beginning and ending mileposts;
- c. Length (in feet);
- d. Height above the rail (in feet);
- e. Number of tracks in the tunnel;
- f. Method, time period and cost of construction; and
- g. Maintenance costs for each year or partial year 2007 to the present.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome, in part because it seeks documents dating from 2007. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession created from 2008 through the filing of the Complaint, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 132

Please produce documents sufficient to show the tunnels or former tunnels located on CSXT's system in the SARR States that have been constructed or removed (by daylighting or other means) by CSXT since 2000, detailing location (line segment and milepost), length, number of tracks in the tunnel, method and time period of construction, and the cost per linear foot to construct or remove the tunnel. If no cost data is available for any such tunnels, please produce documents sufficient to show the cost per linear foot of any tunnel construction or removal performed anywhere on CSXT's system since 2000.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome, in part because it seeks documents dating

from 2000. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period of 2008 to the present, to the extent they exist.

REQUEST FOR PRODUCTION NO. 133

Please produce bridge lists or other documents detailing the following information for all bridges located on CSXT's system in the SARR States:

- a. Location (milepost, division and subdivision);
- b. Type;
- c. Number of tracks;
- d. Total length;
- e. Number of spans;
- f. Type(s) of spans;
- g. Length of each span;
- h. Load rating;
- i. Clearances;
- j. Height;
- k. Skew;
- l. Curvature
- m. A description of what is being crossed (e.g., name of body of water, highway or road (including name or number), navigable waterway, etc.);
- n. Whether or not it is a movable bridge; and
- o. Whether or not it is in service.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they exist.

REQUEST FOR PRODUCTION NO. 134

Please produce documents sufficient to show the following information related to the construction or replacement, in part or in whole, of each bridge on CSXT's system in the SARR States from 2004 to the present:

- a. The location of the bridge, by line segment and milepost;
- b. The design for each bridge;
- c. An itemized listing of the bridge components being constructed or replaced (including quantities);
- d. The estimated cost, by component, for each of the components (identified in response to Subpart c. above) being constructed or replaced;
- e. The actual cost, by component, for each of the components (identified in response to Subpart c. above) being constructed or replaced;
- f. The total cost of the bridge;
- g. The total length of the bridge;
- h. Whether the project was new construction or rehabilitation;
- i. Whether or not the project was performed "under traffic", i.e., traffic continued to move through the construction area;
- j. All costs incurred as a function of performing the project under traffic, e.g., flagging costs, temporary signal costs, realignments, delays and all other costs that would not be incurred if the bridge was new construction;
- k. The construction documents and contracts for the construction and/or rehabilitation; and
- l. Any cost sharing between CSXT and another entity.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome. Producing all the requested information for each of the many bridges CSXT has replaced since 2004 would be a severely burdensome undertaking. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce a list of AFEs from which TPI can select a reasonable number of AFEs related to bridge construction or replacement for production.

REQUEST FOR PRODUCTION NO. 135

Please produce documents listing the items, the cost of each item and the quantity of each item installed on CSXT's system related to the construction and (during each of the years 2007 to the present) operation of the centralized traffic control signal system(s) or any other traffic control system in use on the CSXT system. Please indicate whether the costs include additional services such as installation, design planning, electrical drops for utilities, and/or transportation. If the costs for additional services are not included, please provide each cost separately for the additional services.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce a list of AFEs from which TPI can select a reasonable number of AFEs related to traffic control systems for production.

REQUEST FOR PRODUCTION NO. 136

Please produce documents containing the following information for each CSXT communications site (defined as a location with a microwave tower, a land mobile radio ("LMR") tower, a tower used for both purposes, or a location where communications equipment (microwave or LMR) is located that does not include a tower) located in the SARR States:

- a. The number of microwave towers, LMR towers, combined towers, or other communications equipment location (shown separately for each category);
- b. The latitude and longitude coordinates of each tower or other communications equipment location;
- c. The height of each tower in feet above the ground and also in feet above sea level;
- d. The number of microwave antennae on each tower and the status of each antenna (i.e., whether it is operational);
- e. The number of LMR antennae on each tower and the status of each antenna (i.e., whether it is operational);
- f. The latitude and longitude coordinates of other communications sites that can link via microwave or radio from this site or a topological map of the communication system; and

- g. The acres of land owned or leased by CSXT for these sites and the cost of purchase or lease.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 137

Please produce documents sufficient to show:

- a. CSXT's specifications for the construction of communications sites (as defined in Request for Production No. 136 above);
- b. Identification and total number of CSXT route miles in the SARR States that are covered by microwave communications;
- c. Identification and total number of CSXT route miles in the SARR States that are not covered by microwave communications;
- d. The cost, manufacturer and model number of each item and the quantities used for the construction and operation of the microwave radio and/or land mobile radio communications system on the CSXT system during each of the years 2007 to the present; and
- e. The annual spot maintenance costs incurred by CSXT for the microwave and/or land mobile radio tower communications system per tower and by device type, in the SARR States, as well as the overall spot maintenance costs systemwide.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to

this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2007. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search.

REQUEST FOR PRODUCTION NO. 138

Please produce documents in a computer readable format, if available, containing the following information for each CSXT at-grade and grade-separated highway crossing on the CSXT system in the SARR States:

- a. Geographic location, *i.e.*, city, county and state;
- b. Rail location, *i.e.*, railroad, line name, division, subdivision and milepost;
- c. Whether public or private;
- d. Name of road being crossed;
- e. Width;
- f. Length;
- g. Type of construction;
- h. Number of tracks;
- i. Type of protective devices;
- j. Date of initial installation at the location;
- k. Total cost of the initial installation and the amount borne by CSXT, if any; and
- l. Identification of the party responsible for ongoing maintenance of any such structures.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it seeks information on “cost” and “date of initial installation” without any date limitation. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 139

For each year 2007 to the present, please produce documents that contain the following information with regard to the CSXT system's highway and at-grade railroad crossings:

- a. The various sizes, compositions and costs per linear foot (installed) of a one-lane private road crossing over a single line of track;
- b. The various sizes, compositions and costs per linear foot (installed) of a two-lane public highway crossing over a single line of track;
- c. The various sizes, compositions and costs per linear foot (installed) of a four-lane public highway crossing over a single line of track;
- d. The installed cost of signs for a private road crossing (if necessary);
- e. The installed cost of signs for a public highway crossing;
- f. The installed cost of each of the different types of protective devices identified in the response to Subpart (i) of Request For Production No. 138;
- g. A list identifying each component required for an automatic type interlocking (assuming a diamond crossing);
- h. The cost of each of the components identified in response to Subpart (g) above and the cost of installation for each year or partial year 2007 to the present;
- i. The costs for a 16-foot and 24-foot cattle guard and the cost of installation for each year or partial year 2007 to the present; and
- j. Any additional costs incurred.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it seeks documents dating from 2007. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession created from 2008 through the filing of the Complaint, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 140

For each highway crossing identified in response to Request for Production No. 138, please provide documents, for each year or partial year 2007 to the present, that show separately for each crossing, any monies received by CSXT from any other party to compensate CSXT for the use of the crossing, including, but not limited to, monies for construction, maintenance and easement payments.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2007. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from 2008 to the filing of the Complaint that can be located after a reasonable search.

REQUEST FOR PRODUCTION NO. 141

Please produce documents containing the following information with regard to CSXT's hot bearing and dragging/failed equipment detectors ("FED"):

- a. The criteria for determining the appropriate spacing of the devices along CSXT's main lines;
- b. The location of FEDs for the portion of CSXT's system in the SARR States; and
- c. The cost of FEDs for each year 2007 to the present.

Response:

CSXT objects to this Request as overbroad and unduly burdensome in that it seeks documents dating from 2007. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession created from 2008 through the filing of the Complaint, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 142

Please produce documents sufficient to describe the specifications, functions, operation and costs, during each of the years 2007 to the present, of any communications system equipment other than microwave towers used to transmit data from devices such as mobile two-way radios, portable (hand-held) two-way radios, FEDs, AEI scanners and EOTDs across all or any part of the CSXT system.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it seeks documents dating from 2007. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession created from 2008 through the filing of the Complaint that can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 143

Please produce documents sufficient to show:

- a. The locations and quantities of fiber optic cabling installed on CSXT rights-of-way in the SARR States;
- b. The bandwidth capacity of the fiber optic cabling identified in Subpart (a);
- c. The entity that owns and operates the fiber optic cabling identified in Subpart (a);
- d. The costs to CSXT, if any, for installing the fiber optic cable identified in Subpart (a);
- e. Whether CSXT is permitted to use the fiber optic cable identified in Subpart (a); and
- f. The amount, if any, CSXT pays the carriers for use of the fiber optic cable identified in Subpart (e).

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 144

If CSXT utilizes the fiber optic cable(s) identified in response to Request for Production No.143, please provide documents sufficient to show:

- a. An identification, and the total number, of CSXT route miles in the SARR States that are covered by fiber optic backbone communications;
- b. The cost, manufacturer and model number of each item and the quantities used for the construction and operation of the fiber optic communications system on the CSXT system during each of the years 2007 to the present; and
- c. The annual spot maintenance costs incurred by CSXT for the fiber optic communications system and by device type, in the SARR States, as well as the overall spot maintenance costs systemwide for each of the years 2007 to the present.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the undefined term "fiber optic backbone communications" as vague and ambiguous. CSXT also objects to this Request as overbroad and unduly burdensome in that it seeks documents dating from 2007. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession created from 2008 through the filing of the Complaint, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 145

Please provide documents identifying each electrical connection in the SARR States that is used to provide power to devices including, but not limited to, the CTC system and other signal devices, hot box detectors, failed equipment detectors, powered road crossings, warning devices and power switches, and provide the following for each such connection:

- a. The location of the connection by line segment and milepost;

- b. The source of the electricity;
- c. The amount CSXT paid for each connection and the date; and
- d. CSXT costs for each billing period from 2008 to the present.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 146

Please produce documents sufficient to show the location, linear feet, and type of fencing (e.g., snow fence), cost per foot and year installed for all fencing currently in place on the portion of the CSXT system in the SARR States.

Response:

CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as unduly burdensome. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 147

Under *Alternative Methods of Accounting for Railroad Track Structures*, 367 I.C.C. 157, 180 (1983), CSXT is required to submit a standard "unit of property" that distinguishes between when a certain cost should be expensed or capitalized. Please produce CSXT's most recent, STB approved property "unit of property" and the supporting information and data for those units.

Response:

Subject to and without waiving the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession sufficient to show CSXT's capitalization policy.

REQUEST FOR PRODUCTION NO. 148

Please produce an unredacted and fully executed copy of CSXT's Positive Train Control Implementation Plan filed with the Federal Railroad Administration as required by 49 CFR §236.1009(a) and §236.1011.

Response:

CSXT specifically objects to this Request to the extent it calls for disclosure of Sensitive Security Information ("SSI"). CSXT further objects to this Request as unduly burdensome because the non-SSI information indicated by the request is publicly available to TPI. CSXT also objects to TPI's demand for a "fully executed" copy as burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections and the General Objections, CSXT states that it will produce responsive documents with SSI materials redacted.

REQUEST FOR PRODUCTION NO. 149

Please provide all studies, analyses, detailed plans and estimates developing CSXT's estimated costs to design, install and maintain the Positive Train Control system detailed in CSXT's Positive Train Control Implementation Plan filed with the Federal Railroad Administration on April 16, 2010.

Response:

CSXT specifically objects to this Request to the extent it calls for disclosure of Sensitive Security Information ("SSI"). CSXT further objects to this Request as overbroad and unduly burdensome to the extent it requests "all studies, analyses, detailed plans and estimates." Subject to and without waiving these objections and the General Objections, CSXT states that it will

produce non-privileged, responsive documents with SSI materials redacted to the extent they exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 150

Please provide all documents showing CSXT's use of funds from the following debt issuances, including, but not limited to, any and all locomotives acquired with the funds:

- a. 6.251% Secured Equipment Notes due January 15, 2023,
- b. 8.375% Secured Equipment Notes due April 15, 2014

Response:

CSXT specifically objects to this Request as overbroad and unduly burdensome to the extent it requests "all" documents showing CSXT's use of funds from these debt issuances. Subject to and without waiving these objections and the General Objections, CSXT states that it will produce non-privileged, responsive documents sufficient to show CSXT's use of funds from the identified debt issuances, to the extent they exist and can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 151

Please provide CSXT's Federal Tax Returns for the years 2007 to 2009, including all schedules and worksheets showing the calculation and development of bonus depreciation allowed under the Economic Stimulus Act of 2008 and the American Reinvestment and Recovery Act.

Response:

CSXT objects to this Request as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. CSXT's federal tax returns contain sensitive commercial information and are not relevant to a Stand Alone Cost analysis. CSXT further objects to this Request as overbroad and unduly burdensome because it is not limited to a reasonable scope of time and instead seeks information since 2007.

REQUEST FOR PRODUCTION NO. 152

Please provide the following confidential and highly confidential documents that CSXT produced to the complainant in STB Docket NOR No. 42110, Seminole Electric Cooperative, Inc. v. CSX Transportation, Inc.:

- a. All documents produced in response to complainant's discovery requests and follow-up clarification requests; and
- b. A copy of CSXT's confidential/highly confidential Reply evidence and any errata, including all electronic files, data bases and workpapers supporting that filing.

Response:

CSXT objects to this Request because it seeks documents and information from a prior case, without any effort to limit the request to information that is relevant to the present case. CSXT further objects to this request as overbroad, and seeking information lacking relevance to issues in this case. Most of the voluminous discovery record and confidential and highly confidential evidence in an entirely different case have no relevance to this case. Further, CSXT objects that to the extent that evidence or information produced in a prior case may be relevant to matters properly at issue in this case, they are surely duplicative of other requests in TPI's unduly burdensome 2155-part discovery requests. CSXT further objects that it could not comply with this extraordinary Request without disclosing information that Seminole Electric Cooperative, Inc. designated as Highly Confidential and violating the Board's Protective Order in that proceeding.

REQUEST FOR PRODUCTION NO. 153

Please provide the following CSX Geographic/Geospatial Information System (GIS) data. The ("GIS") data should be viewable, readable, and writable with no access limitations. The GIS data should be able to be read using current off the shelf (COTS) software, using either ESRI ArcView (ArcGIS) or MapInfo Pro (MapInfo / PitneyBowes):

- a. Map Projections defined per layer;

- b. GIS files associated with and/or created by the GIS software system, to include:
 1. In their original vector, or other, file format to include file types such as:
For ESRI application software:
 - a) .shp (shape files, feature geometry)
 - b) .shx (shape file indexes)
 - c) .dbf (attribute format)
 - d) .prj (projection format)
 - e) .sbn, .sbx (spatial indexes of features)
 - f) .fbn, .fbx (spatial index of features)
 - g) .ixs (geocoding indexes)
 - h) .mxs (geocoding indexes)
 - i) .atx (attribute index)
 - j) .shp.xml (metadata in xml)
 - k) .cpg (code page)
 2. For MapInfo application software:
 - a) .dat (attribute data)
 - b) .tab (MapInfo table, stores types of data)
 - c) .id (stores links to graphic and database information)
 - d) .map (stores graphic and geographic information)
 - e) .ind (index files)
 3. For other GIS systems: provide native files.
- c. Map data geocoded to a standard available coordinate system;
- d. Map data associated to latitude and longitude coordinates without limits placed on decimal accuracy; and
- e. Map Layers (either separate object layers, or in layers with each object having attributes defining the item's entity type and attributes)
 1. Track detail
 - a) Rail stations and/or nodes (an entity with all attributes)
 - b) Rail segments and/or links between nodes (an entity with all attributes)
 - c) Siding (an entity with all attributes)
 - d) Grade (an entity, or attributes associated to track)
 - e) Curves (an entity, or attributes associated to track)
 - f) Mileposts (an entity, with a unique identifier, milepost name, milepost code, latitude and longitude coordinates with no limits on geocoded coordinate decimal values) that match the mileposts in the transactional "Event" data

provided in response to Request For Production Nos. 21 and 22

2. Mileage between track nodes;
3. Land parcels; and
4. Terminals (including, but not limited to, CSXT rail yards, Automotive Distribution Centers, Transflo facilities and intermodal facilities).

Response:

CSXT objects to this overbroad and extraordinarily burdensome demand that CSXT produce system-wide GIS data that accords with TPI's exacting data specifications. CSXT further objects to this Request to the extent that it is duplicative of other requests requesting similar information, including TPI's many requests for information about the track, grade, curves, stations, and yards of virtually CSXT's entire system. Subject to these objections and the General Objections, CSXT states that it is not feasible to produce the massive volume of GIS data requested by TPI. CSXT will make GIS data available for reasonable inspection in Jacksonville by TPI representatives.

REQUEST FOR PRODUCTION NO. 154

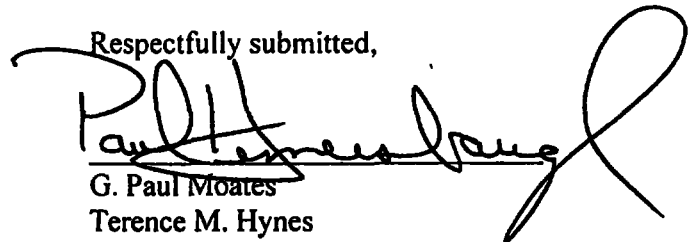
Please provide a copy of or access to the CSX Track Chart and Engineering Information System ("System") or any replacement system. Also, please provide instructions on how to use the System to access the component parts of the System as identified in Interrogatory No. 22. If the System has been revised or updated since the September 10, 2000 paper referred to Interrogatory No. 22 and is currently called something else, please provide a copy of or access to the revised or updated system and the appropriate instruction on how to use the revised or updated system.

Response:

CSXT objects to this Request because it requires CSXT to produce software in potential violation of applicable software licensing agreements and copyright laws. CSXT also objects to this Request because it calls for production of commercially available software or equivalents of such software that can be acquired from other sources. CSXT further objects because TPI's

request that CSXT produce software is not reasonably calculated to lead to the discovery of admissible evidence.

Peter J. Shudtz
Paul R. Hitchcock
John P. Patelli
Kathryn R. Barney
CSX Transportation Inc.
500 Water Street
Jacksonville, FL 32202

Respectfully submitted,

G. Paul Moates
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Paul A. Hemmersbaugh
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1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000
(202) 736-8711 (fax)

Counsel to CSX Transportation, Inc.

Dated: June 23, 2010

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of June, 2010, I caused a copy of the foregoing Responses and Objections of CSX Transportation, Inc. to Complainant's First Requests for Admission, Interrogatories, and Requests for Production of Documents to be served on the following parties by first class mail, postage prepaid or more expeditious method of delivery:

Jeffrey O. Moreno
Jennifer M. Gartlan
Thompson Hine LLP
1920 N Street, NW, Suite 800
Washington, DC 20036



Eva Mozena Brandon

Exhibit 2

G. Paul Moates
Sidley Austin LLP
1501 K Street, N.W.
Washington D.C. 20005

July 16, 2010

**RE: STB Docket No. NOR 42121, Total Petrochemicals USA, Inc. v. CSX
Transportation, Inc.**

Dear Paul:

This letter addresses the responses and objections of CSX Transportation, Inc. ("CSXT") to "Complainant's First Requests for Admission, Interrogatories, and Requests for Production of Documents" and "Complainant's Second Set of Discovery Requests," which CSXT served on June 23, 2010 and July 1, 2010, respectively. The purpose of this letter is to facilitate discussions between TOTAL PETROCHEMICALS USA, Inc. ("TPI") and CSXT to resolve their differences without resorting to the Surface Transportation Board ("STB" or "Board"). As described below, TPI has narrowed many of its requests in an attempt to reach a reasonable compromise between TPI's discovery needs and CSXT's objections. TPI has also replied to many CSXT objections, further explaining the need for certain information and/or documents.

With regard to many of TPI's Interrogatories and Requests for Production ("RFP"), CSXT has responded with one or more objections and/or limitations while at the same time stating that information and/or documents will be produced. It is possible that CSXT's eventual production of documents will be sufficient for TPI's purposes in this case, and, therefore, TPI is adopting a "wait and see" approach with respect to CSXT's responses. This approach may alleviate the need for not only detailed negotiation about what, exactly, CSXT is producing but also recourse to the STB. However, TPI can only take this approach if CSXT agrees to extend its waiver of any objection to a motion to compel as untimely under the Board's rules. Therefore, we ask CSXT to provide this waiver in order to avoid potentially unnecessary discovery disputes.

In response to certain Interrogatories and RFPs, CSXT has stated that TPI may inspect documents or other information in Jacksonville. TPI's ability to identify information that it desires to inspect in Jacksonville depends upon two important factors. First, CSXT must make the list of available documents available for TPI's review well before the close of discovery on October 15, 2010. Second, CSXT must provide full responses, in electronic format where available, to RFP Nos. 20-23. **Therefore, TPI requests assurances from CSXT that it will, at a minimum, provide the above information no later than August 13, 2010.**

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Where TPI accepts inspection as appropriate and sufficient, TPI reserves the right to not only inspect documents and information, but also to obtain copies after inspection. 49 CFR § 1114.30(a)(1). As a general matter, TPI reserves the right to pursue more complete responses from CSXT in the event the promised production falls short of TPI's information needs.

In addition, to the extent that CSXT does not produce any documents in response to a specific RFP because no such documents exist, we ask that you clearly state this fact in a supplemental, or amended, response.

GENERAL OBJECTIONS

While CSXT has raised numerous General Objections in response to TPI's discovery requests, CSXT has also repeated many of these General Objections in its Specific Objections to TPI's individual discovery requests. In this letter, TPI has provided a written response to several of CSXT's General Objections. Where CSXT has raised Specific Objections that mirror its General Objections, the response of TPI to the General Objection should be understood to also apply to CSXT's Specific Objection. This obviates the need for TPI to repeat itself throughout this letter.

General Objection #1

CSXT has objected to the scope of TPI's discovery requests. The size and scope of TPI's discovery is driven exclusively by the size and scope of the stand-alone railroad ("SARR") needed to encompass the transportation movements included in TPI's Complaint. TPI has merely adhered to the process of obtaining information necessary to develop stand-alone costs ("SAC"). In fact, CSXT itself has long advocated, such as in its comments filed October 24, 2006 in Ex Parte No. 646 (Sub-No. 1), for the necessity of evaluating rate reasonableness complaints based on SAC principles. It is inconsistent for CSXT to advocate for a SAC rate reasonableness standard, while objecting to the scope of discovery that is necessary for the complainant to develop and present SAC evidence.

General Objections #2, 12-14, and 18-21

CSXT has objected to TPI's discovery requests "to the extent" they seek to expand upon or describe obligations inconsistent with 49 CFR Part 1114. CSXT has not indicated the exact manner in which TPI's definitions, instructions, or requests conflict with Part 1114. Moreover, TPI specifically referenced Part 1114 in its requests. Therefore, CSXT's objections lack specificity sufficient for TPI to respond.

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General Objection #8

CSXT has objected to production of information or documents that may be “accessible” to TPI. This objection is ambiguous and does not follow the standard of 49 CFR § 1114.30(a)(1). TPI reiterates that CSXT should follow § 1114.30(a)(1) and produce documents in its possession, custody, or control.

General Objection #9

CSXT has objected to producing (1) information or data that is “sensitive security information (“SSI”), (2) information or data that is classified or otherwise prohibited from disclosure, and (3) documents whose public release could jeopardize the safety of the public and/or CSXT employees.” Due to the potentially ambiguous and broad nature of this objection, TPI requests that, instead of wholesale refusal to produce documents that may contain SSI or classified information, CSXT redact the information protected from disclosure and produce the redacted documents. For example, cost information should not be SSI or classified, but, instead, should be produced. Moreover, the generic reference to “documents whose public release could jeopardize the safety of the public and/or CSXT employees” is a highly subjective and undefined category. To the extent such documents exist, they presumably would fall within the first two categories listed above. Therefore, if CSXT withholds documents under this third category that do not also fall within the one of the other categories, TPI requests that CSXT “identify” all such documents within the meaning of Definition #75 of TPI’s First Discovery Requests.

General Objection #11

TPI clarifies that Definition #41 of “CSX” includes all subsidiaries listed in Definition #45. Definition #44 is specific to CSXT and all entities identified on page 4 of CSXT’s 2007 Annual Report Form R-1 that provide transportation and/or terminal services in the SARR states. Transportation-related subsidiaries of CSX, as well as affiliates of CSXT, are relevant and appropriate subjects for discovery in this proceeding. *See Seminole Electric Cooperative, Inc. v. CSX Transportation, Inc.*, STB Docket No. 42110 (served Feb. 17, 2009).

General Objection #16, 17, 18, 19 and 20

CSXT objects to instruction 3 based on claims that (1) it would require “special studies”, (2) it would be unduly burdensome, and (3) it violates attorney-client privilege/work product doctrine. With Instruction 3, TPI has requested supporting computer information necessary to understand and ultimately utilize the data requested from CSXT. TPI disagrees with each of CSXT’s objections. Firstly, the information requested would not require a special study or be unduly burdensome since (1) presumably CSXT (or CSX Technology, Inc.) already has documents that map various information systems and data warehouses utilized by CSXT in the normal course of

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business and (2) some of the information requested would necessarily result from the queries/programs developed by CSXT to create the data requested by TPI. All TPI is requesting is that CSXT provide a detailed description of the system, data sources and processes used by CSXT to create the electronic data it produces and a detailed description of the actual data produced (database structures, descriptions, decoders, etc.). By requesting this information at the outset of production, TPI hopes to expedite the production of usable electronic data that may delay the burdensome and time-consuming process based on follow-up correspondence with questions from TPI. Without this information, some of the critical computer files and electronic data produced by CSXT may be rendered virtually useless. TPI is aware that at least one prior complainant has had difficulty in using information produced by CSXT due to the inability to interpret CSXT's computer-readable data. *See, e.g.,* Rebuttal Evidence of Seminole Electric Cooperative, Inc. at III-C-7 to III-C-9 in *Seminole v. CSXT*, STB Docket No. 42110 (filed April 15, 2010). TPI requests that CSXT conform to Instruction #3 in responding to TPI's Requests and Interrogatories.

General Objection #22

CSXT objects to providing information or documents from the time period before 2008. TPI is willing to limit the time frame of certain discovery requests, as described herein. For other requests, however, information and documents prior to 2008 are necessary due to the distorting effects of the economic downturn in 2008 and 2009 and/or the relative infrequency of certain events, contracts, or projects.

REQUESTS FOR ADMISSION

Request for Admission #1

CSXT asserts that this Request for Admission requires CSXT to disclose its litigation position and/or undertake a special study. These objections are unfounded. A responding party who considers that a matter "presents a genuine issue for hearing may not, on that ground alone, object to the request." 49 CFR § 1114.27. TPI's request is merely a factual one, and, as CSXT knows, the determination of revenue-to-variable cost ratios is extremely straightforward (not to mention that CSXT has likely already calculated such ratios). TPI reiterates its Request for Admission #1, and requests a response for each of the Challenged Rates as soon as CSXT calculates the R/VC ratio, if it has not already done so. Failure to respond by CSXT would defeat the purpose of requests for admission – the narrowing of factual matters in dispute.

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INTERROGATORIES

Interrogatory #1

TPI repeats its position expressed in Request for Admission #1 above.

Interrogatory #4

CSXT objects based on privilege, burden, and relevance to identifying the persons who responded on its behalf in developing the discovery responses. TPI clarifies that this Interrogatory does not encompass individuals who gathered documents and information, but only those individuals who determined the Request for Admission responses, prepared Interrogatory responses, or reviewed and/or selected documents for possible production. The mere identity of these individuals is not privileged; only communications and similar information would be privileged. Moreover, the identity of these individuals is relevant to assessing the content and completeness of the responses, as well as identifying any individuals to be deposed. TPI reiterates Interrogatory #4.

Interrogatory #6

CSXT objects to producing information regarding its agreements and arrangements with other railroads on grounds of burden, vagueness, special study, and relevance. This information is relevant because the Stand-Alone Railroad ("SARR") will replace CSXT with regard to these agreements and arrangements. TPI clarifies that the term "arrangements" refers to all agreements, whether written or verbal, that CSXT has with the identified railroads for the pricing and handling of traffic between them. If CSXT does not have a written agreement, a narrative response must still be provided, despite CSXT's "special study" objection. A "special study" objection may be appropriate where the responding party does not retain data in the ordinary course of business, or where the request requires the responding party to conduct an analysis of retained data that could just as easily be conducted by the requesting party. However, such an objection is not appropriate here, where CSXT surely has the requested knowledge and information to operate its business, and TPI otherwise has no access to this relevant information. TPI reiterates Interrogatory #6.

Interrogatory #7

CSXT objects to producing certain information regarding rail yards in the SARR States on the basis of vagueness, special study, and burden. TPI clarifies that CSXT's definition of "yard" (in its June 23rd written response) is acceptable. TPI notes that the Interrogatory is not overbroad because its scope is dictated by the scope of the SARR. If CSXT intends to narrow the scope of its response based on these objections, please clarify the more narrow scope.

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Interrogatory #10

CSXT has not identified the necessary inputs to run the cited programs. Please complete the response to this Interrogatory.

Interrogatory #12 - #17

CSXT has objected to these Interrogatories based on, among other things, the special study objection. At the same time, CSXT has stated that business records will be produced "to the extent" they "exist." No special study is needed. CSXT can simply produce the source information so that TPI can conduct its own study.

Interrogatory #18

In response to this Interrogatory, CSXT only named the entity "with primary responsibility" for the listed computer system tasks. The Interrogatory seeks identification of "any company other than CSXT," and TPI reiterates the Interrogatory. Simply identifying a company, as this Interrogatory requests, is not unduly burdensome.

Interrogatory #20

CSXT has objected to answering this Interrogatory regarding the ONE Plan, claiming that the Interrogatory seeks irrelevant information. The ONE Plan is relevant to the development and design of an optimally efficient SARR, which will serve many of CSXT's current customers and operate in the same areas. The SARR may replicate CSXT's operations and will provide the same or better service to these customers as provided by CSXT, therefore questions related to CSXT's internal performance improvement programs are relevant to service provided by CSXT and the SARR. TPI reiterates its request that CSXT respond to Interrogatory #20.

Interrogatory #21

CSXT has objected to responding to this Interrogatory, which asks about computer models and software used by CSXT, on grounds of special study, burden, relevance, and intellectual property laws. CSXT has stated it will describe the purpose and function of the models. Again, these models are relevant to development and design of the SARR, which will serve many of CSXT's current customers and operate in the same areas. To the extent that CSXT relies upon "applicable agreements (including licensing agreements)" as the reason for its refusal to provide the requested information, TPI requests that CSXT produce the respective agreements. TPI reiterates the Interrogatory.

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Interrogatory #23

CSXT's response is inadequate. In response to CSXT's denial that TPI has accurately stated the common carrier rates for the Issue Movements, TPI has requested that CSXT identify the tariffs and rates that it contends are the correct rates. CSXT's referral to the tariff, without actually identifying the rates in the tariff is non-responsive to the clear intent of this Interrogatory.

REQUESTS FOR PRODUCTION

RFP #1, 9, 10 and 11

CSXT's relevance objections to these RFPs are misplaced. These RFPs pertain to market dominance, not to SAC. CSXT has long stated in filings at the STB and other public statements that its transportation rates are set based on market forces and not on costs. These RFPs seek to ascertain the market factors that influenced CSXT's rate-setting as a means to investigate qualitative market dominance over the respective movements. TPI reiterates these RFPs.

RFP #13

Although CSXT has produced paper timetables in response to this RFP; TPI has requested that these (and all other documents requested in the RFP) be produced in a machine-readable format, to the extent available, as noted in the RFP.

RFP #17

Among other things, CSXT has objected to providing the documents requested by subpart (e) if "available from other sources." This is not the correct standard for response to an RFP under 49 CFR § 1114.30(a)(1); the correct standard is whether the requested documents are in CSXT's "possession, custody, or control." TPI reiterates RFP #17.

RFP #20

CSXT has objected to producing the requested documents regarding each movement in the SARR States to the extent a response requires a special study. CSXT has also objected to subparts (v), (x), (ii), and (kk) to the extent they seek non-CSXT information. TPI repeats its earlier statement that CSXI information is relevant. See *Seminole v. CSXT*, STB Docket No. 42110 (served Feb. 17, 2009). In order to expedite the production of the data requested in RFP #20, TPI will accept the production of CSXT system-wide data instead of data for traffic moving in the SARR states only. TPI reiterates RFP #20.

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RFP #21

CSXT has objected to production of documents regarding train, car, and locomotive movement, as both overbroad and burdensome. At the same time, however, CSXT says it will produce certain documents. TPI specifically requests that CSXT clarify the scope of its response as narrowed by its objections.

RFP #23

CSXT has objected to producing documents, programs, decoders, and other information, asserting burden, special study, and "applicable software licenses and agreements." Production of the requested documents and information is necessary so that TPI can develop the SARR. TPI requests that the programs, decoders, instructions, and other information be produced. To the extent that CSXT relies upon "applicable software licenses and agreements" as the reason for its refusal to provide the requested information, TPI requests that CSXT produce the respective licenses and agreements. CSXT should name and identify the exact program(s) used if CSXT asserts that the program(s) cannot be produced. CSXT should also produce any means that it possesses to link data sets that it produces in response to RFP #20, 21 and 22, including the production of and the identification of a common field or fields in the data sets produced.

RFP #24 and 25

CSXT has objected to producing documents related to its implementation of the "One Plan" and "Total Service Integration" ("TSI") plans for improving CSXT operating performance on the basis that neither "has relevance to the issues in this case." TPI disagrees as each of these programs represent an indepth self-evaluation by CSXT of its rail system and actual operating performance that is presumably based on identification of inefficiencies. The SARR would benefit from these analyses as it desires to create the most efficient, least cost system to serve the SARR traffic group. This information should be available in the normal course of business and should be simple to produce. TPI reiterates RFP #24 and #25

RFP #26 and #153

CSXT has objected to producing its Geographic Information System ("GIS") due to the "potential violation of applicable licensing agreements and intellectual property laws." To the extent that CSXT relies upon "applicable licensing agreements" as the reason for its refusal to provide the requested information, TPI requests that CSXT produce the respective agreements. CSXT should name and identify the exact program(s) used if CSXT asserts that the program(s) cannot be produced.

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RFP #26 is related to RFP #153, which seeks CSXT's specific GIS data. In order to fulfill its obligation to respond to RFP #26 and #153, CSXT should produce the data inputs, decoders, and other information in electronic format that it uses in its GIS program, as described in RFP #153. This data can be provided in the manner in which it is kept in the ordinary course of business; therefore, no special study would be required. If extracting the relevant RFP #153 data is considered burdensome, CSXT may simply produce systemwide data inputs in electronic format including all record layouts, field descriptions, data definitions and data dictionaries/decoders required to use the data. CSXT's offer that TPI may "inspect" the data in Jacksonville is of little value as the CSXT's GIS data is necessary to development of the SARR. Simply permitting TPI to review the data on a computer screen in Jacksonville is pointless and absurd. Furthermore, TPI is entitled to obtain copies of all documents it inspects, and TPI does not need to inspect the electronic GIS data to know that it will need a copy. 49 CFR § 1114.30(a)(1). At a minimum, CSXT should produce all the GIS data it plans to make available for inspection in Jacksonville to TPI or explain in greater detail why the production of this electronic data is not feasible. TPI reiterates RFP #26 and #153.

RFP #28

In response to TPI's request for working copies, including all input data files, of certain analytical models, CSXT has objected based on burden and "applicable licenses or agreements." To the extent that CSXT relies upon "applicable licenses or agreements" as the reason for its refusal to provide the requested information, TPI requests that CSXT produce the respective licenses or agreements. CSXT should also name and identify the exact program(s) used if CSXT asserts that the program(s) cannot be produced. TPI also repeats its statement in response to CSXT's answer to Interrogatory #21 above. Regardless whether CSXT produces the programs, it should produce the electronic data inputs, including all record layouts, field descriptions, data definitions and data dictionaries/decoders required to use the data. Moreover, CSXT's objection that the requested software is "not reasonably calculated to lead to the discovery of admissible evidence" is belied by the fact that CSXT relied on both MREE and RTC software and input files in production of its Reply evidence in *Seminole v. CSXT*, STB Docket No. 42110 (filed January 19, 2010) see the Public Version of CSXT's Reply at III-C-55 to III-C-58 and III-C-87 to III-C-96.

RFP #29

CSXT has objected to producing current pricing authorities that are available on its web site. Because this RFP requests pricing authorities from 2008 to the present, please clarify that CSXT will produce pricing authorities from this time period that are not currently available on its web site.

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RFP #30

In response to TPI's request for traffic forecasts since 2008, CSXT has objected to production of 2008 forecasts as outdated. TPI is willing to forego production of 2008 forecasts, if CSXT produces all requested forecasts for 2009 and 2010 to the present. Because CSXT's response did not reference 2010 forecasts, please clarify that CSXT will produce both 2009 and 2010 forecasts. Also, please clarify whether CSXT's response includes CSXI, TDSI and TRANSFLO.

RFP #31

CSXT has objected to production of inflation and/or rail cost adjustment estimates or calculations, asserting that this data is publicly available. To the extent that CSXT has developed any internal estimates or calculations, such as relating to subpart (h), TPI notes that such estimates or calculations would not be publicly available and should be produced.

RFP #34

To the extent that CSXT relies upon "applicable software licenses or agreements" as the reason for its refusal to provide the requested information, TPI requests that CSXT produce the respective licenses and agreements. CSXT should name and identify the exact programs used if CSXT asserts that the programs cannot be produced. Regardless, electronic data inputs should be produced including all record layouts, field descriptions, data definitions and data dictionaries/decoders required to use the data.

RFP #35 - #36

TPI repeats its statement in response to CSXT's answer to RFP #34 above.

RFP #37

CSXT has objected to producing information about coal mines on its rail lines, asserting special study and burden. At the same time, CSXT has cited to its website and stated that certain documents will be available for inspection. TPI has reviewed the cited website, but it does not include the requested information in subparts (b), (d), (e), (f), (g), (h), (i), or (j). TPI reiterates the RFP.

RFP #39 - #41

CSXT has objected to these RFPs for several reasons, including the scope encompassed, but also stated that documents will be produced. TPI notes that the scope of the RFPs is necessitated by

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the variety of challenged rates included in the Complaint. Please clarify to what extent CSXT's responses are limited by its objections.

RFP #42

TPI has requested documents related to unplanned incidents and outages in the SARR States, and CSXT has raised a special study objection but has also stated that undefined documents will be produced. As stated in the language of the RFP itself, TPI notes that no special study is needed. ("If the information requested would require a special study, please produce...reports or similar documents, as kept in the ordinary course of business."). In other words, CSXT can simply produce the source information so that TPI can conduct its own study. Please clarify that CSXT intends to produce, at a minimum, the information in the last sentence of this RFP.

RFP #43

TPI has requested documents related to modeling of CSXT operations, and CSXT has objected to production of studies owned by or funded by third parties. CSXT should produce any studies in which it has any ownership rights, or studies in its possession, custody, or control. 49 CFR § 1114.30(a)(1). To the extent that any analyses include passenger operations, CSXT may exclude the *.TRAIN input files from its production.

RFP #44

CSXT incorrectly reproduced the text of RFP #37 in its response. Therefore, it is not clear whether CSXT's response refers to the reproduced text of RFP #37 or the actual content of RFP #44. Please clarify and provide a response to RFP #44.

RFP #46

TPI has requested computer models, information, and documents related to calculation of cycle times. CSXT has objected, claiming burden, no reasonable calculation to lead to admissible evidence, and "applicable software licenses or agreements." TPI notes that cycle times are extremely relevant because they are a large component of operating plans and SARR train movement, and that the SARR will operate in the same areas and serve the same customers as CSXT. To the extent CSXT relies upon "applicable software licenses or agreements" as the reason for its refusal to provide the requested information, TPI requests that CSXT produce the respective licenses and agreements. CSXT should name and identify the exact programs used if CSXT asserts that the programs cannot be produced. Regardless, electronic data inputs should be produced.

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RFP #49

In this RFP, TPI requested contracts related to car inspections from 2006 to the present. CSXT objected to production of pre-2008 contracts. Due to the fact that many contracts are multi-year in nature, TPI requested contracts from 2006 to the present. TPI can accept CSXT's limitation, if CSXT clarifies that it will produce contracts that were in effect from 2008 to the present, regardless of when they were executed.

RFP #50

TPI has requested computer models, information, and documents related to determining the number of railcars necessary to move peak period traffic. CSXT has objected, claiming burden, no reasonable calculation to lead to admissible evidence, and "applicable software licenses or agreements." TPI notes that peak periods are relevant to development of SARR operating plans and train movement, and that the SARR will operate in the same areas and serve the same customers as CSXT. To the extent CSXT relies upon "applicable software licenses or agreements" as the reason for its refusal to provide the requested information, TPI requests that CSXT produce the respective licenses and agreements. CSXT should name and identify the exact programs used if CSXT asserts that the programs cannot be produced. Regardless, electronic data inputs should be produced including all record layouts, field descriptions, data definitions and data dictionaries/decoders required to use the data.

RFP #56

TPI has requested computer models, information, and documents related to determining fuel consumption of CSXT trains. CSXT has objected, claiming burden, no reasonable calculation to lead to admissible evidence, and "applicable software licenses or agreements." TPI notes that fuel consumption is relevant to development of SARR operating plans and train movement, and that the SARR will operate in the same areas and serve the same customers as CSXT. To the extent CSXT relies upon "applicable software licenses or agreements" as the reason for its refusal to provide the requested information, TPI requests that CSXT produce the respective licenses and agreements. CSXT should name and identify the exact programs used if CSXT asserts that the programs cannot be produced. Regardless, electronic data inputs should be produced including all record layouts, field descriptions, data definitions and data dictionaries/decoders required to use the data.

RFP #59

In response to the request for documents related to locomotive utilization, CSXT has objected on the basis of vagueness, but also stated that documents will be produced. TPI does not understand why "locomotive utilization," a concept that is routinely used in SAC cases, is considered vague.

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Given that CSXT will produce documents, please clarify how CSXT's objection will narrow the scope of its response.

RFP #60

TPI has requested documents, including any computer models, related to how CSXT assigns locomotives to trains. CSXT has objected, claiming burden, no reasonable calculation to lead to admissible evidence, and "applicable software licenses or agreements." TPI notes that locomotive assignment is relevant to development of SARR operating plans and train movement, and that the SARR will operate in the same areas and serve the same customers as CSXT. To the extent CSXT relies upon "applicable software licenses or agreements" as the reason for its refusal to provide the requested information, TPI requests that CSXT produce the respective licenses and agreements. CSXT should name and identify the exact programs used if CSXT asserts that the programs cannot be produced. Regardless, electronic data inputs should be produced including all record layouts, field descriptions, data definitions and data dictionaries/decoders required to use the data.

RFP #61

TPI has requested documents related to locomotive peak period studies from 2003 to the present. CSXT has objected because the RFP seeks pre-2008 information and because the RFP seeks underlying databases. TPI clarifies that "underlying databases" need not be produced, and that the RFP can be limited to studies from 2006 to the present. Data and studies from pre-2008 periods is absolutely necessary due to the distorting effect of the economic downturn of 2008 and 2009.

RFP #62 - #64

TPI clarifies that "underlying databases" need not be produced, and that the RFPs can be limited to studies from 2006 to the present. Data and studies from pre-2008 periods is absolutely necessary due to the distorting effect of the economic downturn of 2008 and 2009.

RFP #66

CSXT's response is incomplete because it is limited by the term "currently," whereas TPI's request includes 2008 to the present. Please provide a full response to this RFP.

RFP #70

CSXT has objected to production of documents related to CSXT compliance with hazardous materials regulations, on the basis of relevance. The requested documents are relevant to any

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handling or routing of hazardous commodities by the SARR, which will be comprised of CSXT customers and follow CSXT routes. TPI clarifies this request by deleting the phrase "compliance with regulations for." TPI reiterates the RFP.

RFP #74

This RFP seeks documents related to capital improvements from 2003 to the present. On the basis of relevance, CSXT has objected to production of documents concerning changes in rail rates or rail rate strategy. TPI withdraws this portion of this RFP. CSXT has also objected to producing pre-2008 documents. Data from pre-2008 periods is absolutely necessary due to the distorting effect of the economic downturn of 2008 and 2009. TPI reiterates the RFP.

RFP #75

CSXT responded to subpart (a) of this RFP by stating that agreements will be available for inspection, but did not similarly respond to the request for production of bills in subpart (b). Please clarify that CSXT also will produce the requested bills in subpart (b). CSXT responded to subparts (c) and (d) in a nonsensical manner by stating that it will produce information that is not the subject of those subparts. Please clarify that CSXT will produce documents responsive to subparts (c) and (d).

RFP #77 - #82 and #84

In response to these RFPs, CSXT objects to production of pre-2008 documents. Data from pre-2008 periods is absolutely necessary due to the distorting effect of the economic downturn of 2008 and 2009. TPI reiterates the RFPs.

RFP #83

In response to this RFP, CSXT objects to production of pre-2008 documents. Data from pre-2008 periods is absolutely necessary due to the distorting effect of the economic downturn of 2008 and 2009. TPI reiterates the RFP. CSXT also incorrectly asserted that RFP #83 is repetitive of an earlier RFP. CSXT is the subject of RFP #77, while TRANSFLO is the subject of RFP #83.

RFP #86

CSXT has objected on the basis of burden and special study to this RFP, while also directing TPI to review Schedule 414 of CSXT's R-1. However, Schedule 414 only provides aggregated data. TPI seeks the data described in RFP 86 on a per car basis. If a special study would be required to

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provide this information, CSXT can simply produce the electronic files, databases, and other documents that contain per car data. TPI reiterates RFP #86.

RFP #87 - #89

In response to these RFPs, CSXT objects to production of pre-2008 documents. Data from pre-2008 periods is absolutely necessary due to the distorting effect of the economic downturn of 2008 and 2009. TPI reiterates these RFPs.

RFP #94

This RFP seeks compensation by individual for certain CSXT employees. CSXT has objected that the RFP seeks sensitive and private information about the individual employees. TPI clarifies that it does not seek names or social security numbers of employees. However, the RFP does seek compensation and other information for each individual identified by the positions described in this RFP.

RFP #96 - #99

In response to these RFPs, CSXT objects to production of pre-2008 documents. Data from pre-2008 periods is absolutely necessary due to the distorting effect of the economic downturn of 2008 and 2009. TPI is willing to limit RFP #97 to 2006 to the present. Otherwise, TPI reiterates these RFPs.

RFP #108

This RFP seeks documents related to invoicing and billing between CSXT and certain other CSX subsidiaries. CSXT objected to part (a) as being irrelevant. CSXT also objects to parts (b), (c), (e), and (f) as being unduly burdensome and irrelevant. The documents requested in parts (a), (b), (c), (e), and (f) are relevant because they describe revenues and costs of CSXT's affiliates. The SARR replaces CSXT for many customers, and is entitled to obtain rail-related services from (or provide rail-related services to) CSXT affiliates just as CSXT does, or alternatively, to provide these services directly to its customers rather than through an affiliate. Hence, the revenues and costs are relevant. *See, e.g.,* CSXT Reply Evidence at III-D-12 (filed Jan. 19, 2010) and Seminole Rebuttal Evidence at III-D-142 to III-D-150 (filed April 15, 2010) in *Seminole v. CSXT*, STB Docket No. 42110 (filed Jan. 19, 2010). TPI also notes that the data in RFP #108 should be produced under *Seminole v. CSXT*, STB Docket No. 42110 (served Feb. 17, 2009). TPI reiterates this RFP.

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RFP #112

CSXT objects to this RFP because it lacks a date limitation, but it is unlikely that many, if any, of the facilities that are the subject of the RFP were constructed after Jan. 1, 2008. TPI reiterates its request that CSXT provide documents sufficient to show the requested information regarding all facilities described in the RFP, and also provide the "original cost and year built." This information is essential to a SAC analysis.

RFP #115

Please clarify that the scope of CSXT's response will include CSXI, TDSI and TRANSFLO. These costs are properly discoverable in accord with *Seminole v. CSXT*, STB Docket No. 42110 (served Feb. 17, 2009). TPI reiterates this RFP.

RFP #120

In response to this RFP, CSXT objects, on grounds of burden, to production of "thousands of voluminous land valuation maps." The scope of the land valuation maps requested is driven exclusively by the size and scope of the SARR needed to encompass the transportation movements included in TPI's Complaint. TPI has merely adhered to the process of obtaining information necessary to develop stand-alone costs. Subject to its objections, CSXT states that it will produce responsive documents, and TPI notes that CSXT has produced valuation maps for 15 of the 22 SARR States. Please clarify whether CSXT intends to respond to this RFP for the remaining SARR States.

RFP #125

CSXT stated that its response to this RFP will only include documents after Jan. 1, 2008. The RFP seeks documents sufficient to show quantities (not costs) of various construction activities. It is unlikely that CSXT performed all or even most of the construction activities since 2008. CSXT should respond with the most recent information available, regardless whether that information is pre-2008.

RFP #127, 128 and 131

For the cost data encompassed in these RFPs, TPI agrees to limit these RFPs to documents after Jan. 1, 2008. However, for the non-cost data encompassed in these RFPs, TPI repeats its response under RFP #125 above.

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RFP # 132

This RFP requests information on tunnels that have been constructed or removed by CSXT since 2000. CSXT has agreed only to produce information since 2008. Because it is unlikely that CSXT has conducted work on many, if any, tunnels since 2008, TPI reiterates the scope of its original request.

RFP #134

In response to this RFP, CSXT has objected on the basis of burden while also stating that TPI may select certain AFEs for production. Although AFEs will provide some information, they will not cover the information in (b), (d), (h), (i), (j), (k), or (l), and may not cover information in (c), (e), or (g). Furthermore, CSXT has objected to production of documents related to bridges replaced since 2004. A date range back to 2004 is necessary because CSXT has probably not conducted work on a broad range of bridge types and sizes since 2008. TPI reiterates the RFP.

RFP #135

TPI repeats its response under RFP #134 above.

RFP #137 - #139

For the cost data encompassed in these RFPs, TPI agrees to limit these RFPs to documents after Jan. 1, 2008. However, for the non-cost data encompassed in these RFPs, TPI repeats its response under RFP #125 above.

RFP #151

CSXT has objected to providing its Federal Tax Returns for 2007 to 2009. TPI is willing to limit the RFP to the amount of Bonus Depreciation claimed by CSX separately for 2008 and 2009 on CSX's Federal Tax Returns in Schedule 4562. The amount should be separated by asset class and include the historical cost recorded for the assets related to the claimed bonus depreciation.

RFP #152

TPI is willing to limit this RFP to:

- a. RTC data provided in discovery (if any).
 - b. RTC data included in CSXT's Reply.
 - c. All CSXT databases provided in discovery.
 - d. All CSXT databases included in CSXT's Reply.
-

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- e. Explanatory information for all CSXT databases provided in discovery (record layouts, field descriptions, data explanations, etc.).
- f. Explanatory information for all CSXT databases included in CSXT's reply (record layouts, field descriptions, data explanations, etc.).
- g. Construction cost and quantity data provided in discovery.
- h. Construction cost and quantity data included in CSXT's Reply.
- i. Operating and non-operating personnel data provided in discovery.
- j. Operating and non-operating personnel data included in CSXT's Reply.
- k. Maintenance of way data provided in discovery.
- l. Maintenance of way data included in CSXT's Reply.
- m. Agreements between CSXT and CSXI and all billing/invoices associated with these Agreements including workpapers supporting all bills/invoices.
- n. Agreements between CSXT and Norfolk Southern Railway Company ("NS") or their affiliates, and any amendments thereto, implementing CSXT's access to the MGA coal region.
- o. All documents provided in discovery identifying donated rights of way and/or land grants (including easements) obtained by CSXT or CSXT's predecessors in connection with the construction of any rail lines or facilities, including the type of information requested by TPI in RFP #121.

This RFP is neither irrelevant, overbroad, or burdensome, as limited above, because it encompasses many of the same CSX lines that are required for TPI's SARR, and CSXT need only respond by granting TPI consent to use data that already is in the possession of TPI's economic consultants.

RFP #153

See TPI's response under RFP #26 above.

RFP #154

To the extent that CSXT relies upon "applicable software licensing agreements" as the reason for its refusal to provide the requested information, TPI requests that CSXT produce the respective licenses and agreements. CSXT should name and identify the exact programs used if CSXT asserts that the programs cannot be produced. Regardless, CSXT does not raise any objections to producing the data in the system and therefore the electronic data inputs should be produced including all record layouts, field descriptions, data definitions and data dictionaries/decoders required to use the data.

* * *

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We would like to schedule a meeting of counsel and consultants to review the issues identified in this letter, as well as CSXT's proposed document production schedule, before the end of July. Please let us know your availability for such a meeting.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeffrey O. Moreno', with a stylized, cursive script.

Jeffrey O. Moreno

Exhibit 3



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FOUNDED 1886

July 26, 2010

By Electronic Mail and Hand

Jeffrey O. Moreno
Thompson Hine LLP
1920 N Street, N.W., Suite 800
Washington, D.C. 20036

Re: *Total Petrochemicals USA, Inc. v. CSX Transportation, Inc.*, STB Docket No. 42121

Dear Jeff:

We write in response to your July 16, 2010 letter addressing discovery in the above-captioned case. While CSX Transportation, Inc. ("CSXT") and TOTAL Petrochemicals USA, Inc. ("TPI") do not agree about the reasonableness and relevance of many of TPI's discovery requests, we do agree that the parties should be able to resolve their discovery disputes through discussions and without Board intervention. To that end, below is a summary of the status of CSXT's discovery production, and some proposals for addressing the parties' discovery disputes.

CSXT's Discovery Efforts

As CSXT noted in its responses to TPI's first set of discovery requests, TPI initially propounded over 700 discovery requests including subparts,¹ most of which demand information for CSXT's entire U.S. rail network. No party to any previous SAC proceeding has propounded such broad and extensive discovery. TPI's claims that its extraordinarily broad discovery requests are nothing more than what is "necessary" in a SAC case are belied by the fact that its first set of discovery requests are vastly broader and more burdensome than all five sets of discovery propounded by the complainant in *Seminole Electric Cooperative, Inc. v. CSXT* combined. Despite TPI's overbroad and unduly burdensome approach to discovery in this proceeding, in the spirit of compromise CSXT is endeavoring to comply with most of TPI's requests – even many of those that CSXT believes are needlessly overbroad or burdensome. CSXT is only refusing to comply with discovery requests that are plainly beyond the scope of relevant, necessary, or appropriate discovery in SAC litigation.

As a result of its decision to accommodate TPI's unprecedented requests, CSXT is in the midst of an extensive effort to identify, gather, and produce responsive information to TPI. To date CSXT has produced over 13,000 pages of documents and ten DVDs with assorted electronic files, and CSXT is presently gathering significant volumes of data and documents for production

¹ Including TPI's recent third set of discovery requests, TPI has posed 768 discovery requests.

Jeffrey O. Moreno

July 26, 2010

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to TPI in the coming weeks. Scores of CSXT personnel have already devoted many hundreds of hours to identifying and producing responsive data and documents. This effort is required because responding to TPI's discovery requests is not a matter of simply pulling data and documents "off the shelf" and producing them. TPI has demanded great and exacting detail about a vast number of subjects, and responding to each individual discovery request typically requires significant investigation into potential data sources and available data formats; identification of methodologies for pulling data for production; and review of data for accuracy and responsiveness.

To take one example, over the past months CSXT internal personnel and outside consultants have worked assiduously to respond to TPI's request for traffic data (RFP 20) – a request that includes forty subsections detailing specific information demanded by TPI as to each movement. (As you may be aware, CSXT does not maintain traffic, revenue, car, train, and routing information in the form, format, order, and organization sought by TPI's requests.) These efforts have consumed significant time to identify responsive data and to devise and test plans for retrieving, assembling, and organizing that data. This has been a considerable task in light of the huge volume of detailed traffic data requested by TPI – CSXT estimates that each year of traffic data it produces could contain approximately 100,000,000 records.

In short, CSXT is working diligently to respond to TPI's extensive discovery requests. Production of the massive amounts of data required in a SAC case (not to mention the data encompassed by TPI's considerable expansion of typical SAC discovery) takes a significant amount of time. Indeed, the parties proposed and the Board adopted a procedural schedule for this case that was designed to account for the burdens of SAC discovery, both by setting the close of discovery for October 15, 2010 and by allowing TPI until February 13, 2010 to file its Opening Evidence. CSXT will continue to produce document and data on a rolling basis and will complete its production as soon as reasonably possible.

Resolving the Parties' Discovery Disputes

TPI's July 16 letter raised nearly seventy separate issues with CSXT's discovery responses and insisted that CSXT meet certain deadlines for production and for meetings with TPI. We do not believe it would be constructive to engage in a point-by-point letter-writing debate about each of these issues. Many of TPI's questions will be answered by the documents that CSXT is producing over the coming weeks, and a face-to-face discussion is a more productive method for the parties to address any remaining issues. CSXT responds to TPI's suggested deadlines as follows.

First, CSXT proposes that the parties agree that motions to compel may be timely filed by either party on or before September 1.

Jeffrey O. Moreno
July 26, 2010
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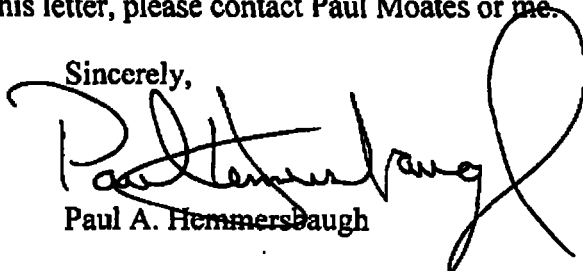
Second, TPI's demand that CSXT complete production of all traffic data by August 13 is neither reasonable nor realistic.² August 13 is months before the close of discovery and *over six months* before TPI's Opening Evidence is due. And, as we have explained, production of traffic and event data is a gargantuan task that requires production of hundreds of millions of records. Nevertheless, because of the concerted effort CSXT has made to comply with TPI's detailed traffic and event data requests, CSXT preliminarily expects that it will be able to begin production of a significant amount of traffic data in August. We will keep you apprised of CSXT's progress in gathering, assembling, and producing relevant traffic data.

Third, we agree that the parties should meet to address their discovery disputes. However, it does not make sense to hold a meeting this week, for several reasons. In the first instance, we anticipate CSXT's productions over the next several weeks will answer or obviate a number of the questions TPI has raised. In addition, several of TPI's questions require significant additional investigation and follow-up with CSXT if our meeting is to be appropriately productive. Further, we continue to believe that a discovery meeting should encompass a discussion of issues and questions arising from TPI's discovery responses to CSXT, as well as its new amended complaint. We received TPI's written responses last Friday (July 23) afternoon, and are in the process of evaluating them. We have a number of initial questions, some of which may be answered by the documents TPI promised to produce in response to CSXT's requests. Moreover, today TPI filed an amended complaint, which you note adds *eighteen* more lanes to the case. See TPI's First Amended Complaint (filed July 26, 2010). We will review TPI's new pleading this week to determine whether and to what extent it may raise questions or concerns that the parties might address in a discovery meeting. When we have completed our review of TPI's discovery responses and new pleading (filed in the last two business days), we may have additional questions or matters to discuss.

For these and other reasons, we propose to hold a discovery meeting early in the week of August 9. Please let us know what dates you might be available for a meeting that week.

We look forward to cooperating with you to facilitate a smooth and efficient discovery process and to resolve the parties' differences without the need to burden the Board with discovery motions. If you wish to discuss this letter, please contact Paul Moates or me.

Sincerely,



Paul A. Hemmersbaugh

² TPI also requested that CSXT complete production of all lists from which it will ask TPI to select documents for inspection before August 13. While this artificial deadline is not necessary or reasonable, CSXT is prioritizing its production of such lists and will produce them soon.

Exhibit 4

October 8, 2010

By E-Mail and First Class Mail

Paul Hemmersbaugh
Sidley Austin LLP
1501 K Street, NW
Washington, DC 20005

**RE: TOTAL Petrochemicals USA, Inc. v. CSX Transportation, Inc., STB Docket
No. 42121**

Dear Paul:

As you know, the discovery period in the procedural schedule for this case closes in one week, on October 15, 2010. The parties met on August 10, 2010 to discuss their discovery disagreements and reached tentative understandings with regard to what each would and would not produce. As we approach the close of discovery, TPI has conducted an inventory of CSXT's responses to each discovery request. That inventory, which is attached, indicates that CSXT has not yet responded to a significant portion of TPI's discovery requests.¹ Please let me know whether and when CSXT will complete its responses to these requests. If it is necessary or desirable, we are prepared to meet with you to discuss the status of discovery responses from both parties.

Sincerely,



Jeffrey O. Moreno

Attachment

¹ Because this is an inventory of all of TPI's discovery requests, it includes requests to which CSXT has posed complete objections. However, those requests are identified by footnotes.

**LIST OF TOTAL INTERROGATORIES AND DOCUMENT
PRODUCTION REQUESTS CSXT HAS NOT PROVIDED DATA**
(Sorted by Interrogatory and Request For Production Number)

Interrogatory / Request For Production (1)	Interrogatory or Request For Production Topic (2)	Item(s) Not Provided (3)
Int 1 1/	If CSXT does not admit that the Challenged Rates ("Challenged Rates" means the single line and AAR Accounting Rule 11 rate(s) for common carrier rail transportation service that are identified in TPI's Verified Complaint) exceed 180% of VC, explain and provide the RVC percentages and identify the documents that support CSXT's response	All requested data.
Int 4 1/	Identify who prepared responses to TPI's requests	All requested data
Int 7	CSXT rail yards	Subparts (a.) through (f), (i.), subpart (g., items ii through v.) and subpart (h., items ii. through ix).
Int 10	Locomotive and/or train performance	Requested identification of inputs.
Int 12	Road Trains	Subparts (d.) through (h.).
Int 13	Intermodal terminals or yards	Subparts (b.), (d) and (e. items i., ii., iii.).
Int 14	Intermodal trains	Subparts (c) through (g.).
Int 15	Automotive Distribution Centers	Subpart (c.)
Int 16	Automotive Trains	Subparts (c.) through (g).
Int 17	TRANSFLO Terminals or Yards	Subparts (a) through (c.), (e.) and (f)
Int 19	3rd party computer companies	All requested data.
Int 20 1/	Describe the CSXT personnel, processes, utilization, computer programs, computer models and electronic data that is utilized by CSXT when developing or implementing its "ONE Plan" for improving operating performance.	All requested data.
Int 21	Describe the CSXT personnel, processes, utilization, computer programs, computer models and electronic data (both input data and output data) associated with each of the 11 specified models or tools used by CSXT and or CSXI to facilitate commercial and operational planning	All requested data.
Int 23 3/	In paragraph 10 of CSXT's Answer to the Complaint, CSXT "denies that the Complaint accurately states CSXT's common carrier rates for all of the challenged movements." Please identify any and all tariffs, and the rates determined by those tariffs, that CSXT contends are applicable to each of the movements in Exhibits A and B to the Complaint.	All requested data.
Int 24	Please describe the services, if any, that CSXI provides at each intermodal terminal or yard identified in CSXT's response to Interrogatory #13.	All requested data.
Int 25	Identification of machine readable (as defined by TPI) data	Subparts (ee.) through (jj).
RFP 1 1/	Documents related to the preparation of single line & AAR Accounting Rule 11 rates for TPI shipments and all predecessor publications incl. all documents used and/or relied upon in determining the formula for calculating the rates	All requested data.
RFP 2	Profitability Studies	All requested data
RFP 9 1/	Documents created, reviewed or referred to by CSXT from 1/1/2006 to present to assess the market for transportation of each TPI Shipment and to set rates on each TPI shipment, including but not limited to any competitive alternatives to CSXT rail transportation	All requested data
RFP 10 1/	Documents created, reviewed or referred to by CSXT from 1/1/2006 to present to assess the market for transportation of each Commodity and to set rates on each movement of such commodities.	All requested data.
RFP 11 1/	Documents created, reviewed or referred to by CSXT from 1/1/2006 to present to assess the market for transportation in any of the SARR States for each Commodity and to set rates on each movement of such commodities.	All requested data.
RFP 14	Intermodal terminals or yards, automotive distribution centers, TRANSFLO terminals	All requested data for intermodal terminals or yards.
RFP 16	Constuction of Industrial Tracks	CSXT policy on the construction of industrial tracks.
RFP 17 2/	Short Line Railroads	Subparts (e.) and (f.).
RFP 18	Operating Statistics and Density	All requested data.
RFP 19	Density	Subparts (e., item ii.) and (f., item i.)
RFP 20	Revenue and Traffic	2008 and 2010 data and subparts (ii.) and (kk.)
RFP 21	Car, Locomotive, and Train Movement	2008 and 2010 data
RFP 23	Documents necessary to utilize, evaluate and link the data produced in RFP 20, 21, 22.	
RFP 24 1/	All studies, analyses, reports, or other documents that evaluate or report on CSXT's implementation and recent update of its "ONE Plan".	All requested data.
RFP 25 1/	All studies, analyses, reports, or other documents that evaluate or report on CSXT's implementation of its "Total Service Integration"	All requested data.
RFP 26 1/	CSXT's geographic information system that captures, stores, analyzes, manages and presents CSXT data that are linked by locations across the CSXT rail system	All requested data.
RFP 28 1/	Working copies of the 11 specified analytical models or tools utilized by CSXT and/or CSXI to develop commercial or operation plans for CSXT	All requested data.
RFP 30	CSXT Forecasts	All requested data.
RFP 31 1/	All inflation and/or rail cost adjustment estimates or calculations in CSXT's possession or that CSXT prepared or caused to be prepared or purchase.	All requested data.
RFP 32 1/	Documents related to the development of the methodology for the calculation and imposition of the "fuel surcharges" described in CSXT's fuel Surcharge Publication 8661-B and all predecessor documents	All requested data.

**LIST OF TOTAL INTERROGATORIES AND DOCUMENT
PRODUCTION REQUESTS CSXT HAS NOT PROVIDED DATA**
(Sorted by Interrogatory and Request For Production Number)

Interrogatory / Request For Production (1)	Interrogatory or Request For Production Topic (2)	Item(s) Not Provided (3)
RFP 33 1/	To the extent not produced in RFP 32, documents related to the consideration of alternative fuel surcharge methodologies.	All requested data.
RFP 34	Databases, data warehouses, and computer programs sufficient to show all the data requested in TPI's RFP 20 for each trailer, container, Auto Rack Car or freight car, handled by CSXT (includes CSXI-TDSI and TRANSFLO).	See RFP 20.
RFP 35	Documents sufficient to link data records for trailer, container, Auto Rack Car and/or freight cars that CSXT will produce in response to RFP 34 to the corresponding data records appearing in the CSXT waybill/car movement/ train movement records or files that CSXT will produce in response to TPI's RFP 20, 21 and 22.	See RFPs 20, 21 and 22.
RFP 36	Databases, data warehouses, and computer programs sufficient to show all of the data requested in TPI's RFP 20, including but not limited to revenue received by CSXI from its customers ("freight revenue"), in connection with traffic described in TPI's RFP 20, for each year or partial year 2008 to the present.	See RFP 20.
RFP 37	CSXT Served Origin Mines	Subparts (e) through (g.) and (j.)
RFP 38	Any studies, simulations, analyses and other documents in CSXT's possession from 1/1/2003 to present analyzing or related to the transportation of shipments to Destinations from Origins (a) by a rail carrier(s) other than CSXT, and (b) by any mode of transportation other than rail.	All requested data
RFP 40	Documents that identify and list the location and type of communications signals used for train operations by milepost, division, and subdivision on all CSXT line segments in the SARR States.	All requested data.
RFP 41	Documents that depict individual tracks, connections to the main line, turnouts, communications, signals and elevations for all yards on the CSXT system which are located in the SARR States.	All requested data.
RFP 43	Rail Traffic Controller ("RTC")	Subpart (c).
RFP 46 1/	The computer model, supporting databases and supporting manuals that are used by CSXT to calculate the expected cycle time for a movement, including all necessary inputs required to run the model.	All requested data.
RFP 47 4/	Car inspection	Subparts (a), (c.), (d.) and (f.) through (k).
RFP 48	Car inspection	All requested data.
RFP 51	Locomotive Roster	All requested data.
RFP 53	Locomotive Leases	All requested data for the specific locomotive leases listed on Attachment No. 1 to CSXT on August 27, 2010.
RFP 54	Helper services	All requested data
RFP 55	Fuel consumption - actual	Subparts (b) through (f.).
RFP 56	Fuel consumption studies	All requested data
RFP 60	Documents which describe and explain how CSXT assigns locomotives to each train on CSXT's system.	All requested data.
RFP 62	Any studies performed by or for CSXT from 1/1/2003 to the present related to the increase in the number of railcars required to handle shipments during seasonal peak traffic periods.	All requested data.
RFP 63	Any locomotive spare margin study performed by CSXT from 1/1/2003 to date that includes locomotives used (a) in coal services and/or (b) in other service to, from, or through the SARR States.	All requested data
RFP 64	Any railcar spare margin study performed by or for CSXT from 1/1/2003 to the present that includes railcars used: (a) in coal services, and/or (b) in other services to, from or though the SARR States.	All requested data.
RFP 65	Crew districts	Subpart (c.).
RFP 67	Hazardous Materials Operating Rules	Subpart (c.).
RFP 68	Documents sufficient to identify switch crew assignments, hump crew assignments, local train assignments, the number of cars handled over each hump yard per day and the number of hazardous material cars handled at each hump yard per day which by-pass the hump operation at each year, for each CSXT rail yard referred to in INT 7.	All requested data.
RFP 70 1/	Documents, reports analyses or studies provided to any Federal or state agencies which discuss or describe CSXT's compliance with regulations for handling, routing, or proposed routing of hazardous materials.	All requested data
RFP 75	Joint Facilities	Subparts (b.) through (d.) for the specific joint facilities requested on August 27 in Attachment No. 2, Pages 1 through 9
RFP 77	Purchased or leased freight cars	All requested data for the specific purchased or leased freight cars listed on Attachment No. 3 to CSXT on August 27, 2010.

**LIST OF TOTAL INTERROGATORIES AND DOCUMENT
PRODUCTION REQUESTS CSXT HAS NOT PROVIDED DATA**
(Sorted by Interrogatory and Request For Production Number)

Interrogatory / Request For Production (1)	Interrogatory or Request For Production Topic (2)	Item(s) Not Provided (3)
RFP 81	Purchased or leased auto racks	All requested data for the specific purchased or leased auto racks listed on Attachment No 3 to CSXT on August 27, 2010.
RFP 82	TDSI Assets	Requested detailed description of TDSI assets Produce referenced contracts and a tie for each contract to the produced data
RFP 85	Railcar repair and maintenance data	All requested data.
RFP 86	Shipper-owned and shipper-leased railcars and intermodal and automotive railcars	All requested data.
RFP 87	Railcar maintenance agreements	All requested data.
RFP 90	Documents that show all items of expense and the associated dollar amount of each expense item included in CSXT's R-1 Annual Report to the STB Schedule 410, Column (c.), Lines 202, 403, and 411 for years 2008 and 2009	All requested data.
RFP 94	CSXT individual locomotive engineer, conductor, dispatcher and equipment inspector	Requested number of shifts worked per year, requested length of employment, identification of type of employee for each employee and decoder for field labeled "NA1" in the data provided.
RFP 103	Hazardous Materials – Operating or Administrative Expenses	Subparts (b.) and (c.)
RFP 105	CSXI, TDSI, TRANSFLO, CSX Tech and CSX Corporation Agreements with CSXT Charging CSXT	Subparts (b.) through (d.).
RFP 107	CSX Technology	Subparts (a.) and (e.)
RFP 108	CSXI, TDSI, TRANSFLO, CSX Tech and CSX Corporation Agreements and bills with CSXT Charging CSXI, TDSI and TRANSFLO	Subparts (e.) and (f.).
RFP 109	Assets for each intermodal yard or terminal served by CSXI	Subpart (d.).
RFP 112	Facilities	Subparts (n.) and (o.)
RFP 114	Security Requirements	Subparts (a.) through (e.) and (g.) through (h.)
RFP 116	Purchased services by CSXI, TDSI and/or TRANSFLO	Requested a detailed description of the purchased services. Produce the referenced contracts and a tie for each contract to the produced data.
RFP 117	Third party computer outsourcing	Requested analyses of the estimated and/or actual savings realized by CSX and each of its subsidiaries from such outsourcing
RFP 118	Contribution or payment by any governmental or quasi-governmental entity for construction, upgrading and/or maintenance of any CSXT track, facility or structure and/or operating expenses	All requested data for the specific items from Attachment No. 2, pages 10 and 11 provided to CSXT on August 27, 2010.
RFP 119	Ultrasonic rail testing and track geometry testing	All requested data.
RFP 123	Construction Standards and Estimating Procedures	Subpart (a.) for bridges; culverts; yard and roadway buildings; fueling facilities; and waste water treatment facilities and Subpart (b.) for all projects.
RFP 125	Grading construction activities	All requested data.
RFP 126	Grading construction costs	All requested data.
RFP 127	Culverts	Requested number of tracks crossed, cost of material and cost of installation.
RFP 128	Ballast and Sub-ballast	Subparts (d.) through (f.)
RFP 129	AFEs for projects greater than \$500,000	Subpart (d.) for all AFEs requested on August 27 in Attachment No. 4
RFP 130	Documents for any projects that a carrier other than CSXT has undertaken in the SARR States since 1/1/2007 for which CSXT paid for some or all of the project.	All requested data.
RFP 131	Tunnels	Subparts (d.) through (g.).
RFP 133	Bridge list	Subparts (g.) through (h.) and (j.) through (l.)
RFP 134	Documents for Projects Relating to Bridge construction or replacement	See RFP 129 above.
RFP 135	Documents for Projects Relating to Signals construction or operation	See RFP 129 above.
RFP 136	Communication sites	Subparts (d.) through (g.).
RFP 137	Construction and maintenance of communication sites	Subparts (b.) through (c.).
RFP 138	At-grade and grade-separated highway crossings	Subparts (e.) through (f.) and (i.) through (l.).
RFP 139	CSXT's system's highway and at-grade railroad crossings	All requested data
RFP 140	For each highway crossing identified in response to RFP #138, please provide documents, for each year or partial year 2007 to the present, that show separately for each crossing, any monies received by CSXT from any other party to compensate CSXT for the use of the crossing, including, but not limited to, monies for construction, maintenance, easement payments, etc.	All requested data.
RFP 142	Documents sufficient to describe the specifications, functions, operation and costs, during each of the years 2007 to the present, of any communications system equipments other than microwave towers used to transmit data from devices such as mobile two-way radios, portable two-way radio, FEDs, AEI scanners and EOTDs across all or any part of the CSXT system.	All requested data.

Interrogatory/ Request for Production (1)	Interrogatory or Request for Production Topic (2)	Item(s) That TPI Claims CSXT Has Not Provided (3)	Actual Status of CSXT's Response to Discovery Request (4)
Int 17	TRANSFLO Terminals or Yards	Subparts (a.) through (c.), (e.) and (f.).	Responsive data has been produced. See CSX-TPI-HC-DVD-058.
Int 19	3rd party computer companies	All requested data.	Responsive data has been produced. See CSX-TPI-HC-DVD-036.
Int 20	Describe the CSXT personnel, processes, utilization, computer programs, computer models and electronic data that is utilized by CSXT when developing or implementing its "ONE Plan" for improving operating performance.	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010).
Int 21	Describe the CSXT personnel, processes, utilization, computer programs, computer models and electronic data (both input data and output data) associated with each of the 11 specified models or tools used by CSXT and or CSXI to facilitate commercial and operational planning	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010). Without waiving those objections, CSXT will provide descriptions of these eleven programs
Int 23	In paragraph 10 of CSXT's Answer to the Complaint, CSXT "denies that the Complaint accurately states CSXT's common carrier rates for all of the challenged movements." Please identify any and all tariffs, and the rates determined by those tariffs, that CSXT contends are applicable to each of the movements in Exhibits A and B to the Complaint.	All requested data	Responsive data has been provided. CSXT identified the applicable tariffs in its initial response to this request. See CSXT Responses to Second Discovery Requests (served July 1, 2010). Indeed, after TPI claimed that it would be too difficult for TPI to have to review the applicable tariffs to determine what rates it had misstated in its complaint, CSXT sent TPI a letter identifying the misstated rates. See P. Moates letter to J. Moreno (sent Aug. 26, 2010)
Int 24	Please describe the services, if any, that CSXI provides at each intermodal terminal or yard identified in CSXT's response to Interrogatory #13.	All requested data.	Remaining responsive data will be produced soon.
Int 25	Identification of machine readable (as defined by TPI) data	(Subparts (ee.) through (ii.)	Responsive data will be produced soon.
RFP 1	Documents related to the preparation of single line & AAR Accounting Rule 11 rates for TPI shipments and all predecessor publications Ind. all documents used and/or relied upon in determining the formula for calculating the rates	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010).
RFP 2	Profitability Studies	All requested data.	Answered in Initial Response. As CSXT explained in its initial responses, CSX does not possess studies of "profitability" based on Uniform Rail Costing System data. TPI's demand for other profitability studies is irrelevant and impermissible, and CSXT flatly objected to that demand in its initial responses. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010)

**LIST OF TOTAL INTERROGATORIES AND DOCUMENT
PRODUCTION REQUESTS CSXT HAS NOT PROVIDED DATA**
(Sorted by Interrogatory and Request For Production Number)

Interrogatory / Request For Production (1)	Interrogatory or Request For Production Topic (2)	Item(s) Not Provided (3)
RFP 143	Fiber optic cable(s)	All requested data.
RFP 144	Fiber optic cable(s)	All requested data.
RFP 145	Electricity	Subpart (a.).
RFP 146	Fencing	All requested data.
RFP 148	Unredacted and fully executed copy of CSXT's Positive Train Control Implementation Plan filed with the Federal Railroad Administration	All requested data.
RFP 149	All studies, analyses, detailed plans and estimates developing CSXT's estimated costs to design, install and maintain the Positive Train Control system detailed in CSXT's Positive Train Control Implementation Plan filed with the Federal Railroad Administration on April 16, 2010	All requested data.
RFP 151 1/	CSXT's Federal Tax Returns for the years 2007 to 2009, including all schedules and worksheets showing the calculation and development of bonus depreciation allowed under the Economic Stimulus Act of 2008 and the American Reinvestment and Recovery Act.	All requested data
RFP 152 1/	Confidential and highly confidential documents that CSXT produced to complainant in STB Docket NOR no. 42110, <i>Seminole Electric Cooperative, Inc. v. CSX Transportation, Inc.</i>	All requested data.
RFP 155	Computer-Readable Data	Subparts (a.), (e.) through (i.), (n.), (r.), (s.), (v.), (w.), (aa.) and (dd.).
RFP 156	CSXI contracts, and all tariffs, common carrier pricing authorities or other documents	All requested data.
RFP 157	CSXI forecasts	All requested data.
RFP 158 1/	Please produce copies of any documents, reports, analyses, or studies provided to any Federal or state agencies which discuss or describe CSXI's and/or TRANSFLO's compliance with regulations for handling, routing, or proposed routing of hazardous materials.	All requested data.
RFP 159	CSXI railcar maintenance agreements and dollars and associated car-miles	All requested data
RFP 160	Liability expense incurred as a result of CSXI's and/or TRANSFLO's handling hazardous materials	All requested data.
RFP 161	Operating or administrative expenses incurred by CSXI and/or TRANSFLO for each year from 2008 to the present as a result of handling hazardous materials, including, but not limited to, items such as switching expenses, insurance expenses, station clerical, car, container or trailer cleaning expenses, accident clean-up expenses, and/or billing expenses.	All requested data.
RFP 162 5/	Please provide copies of CSX's 2008 and 2009 state income tax returns for the SARR States, including all state tax credit worksheets.	All requested data
RFP 163 5/	Please produce specific RTC files (listed in Subparts a-q) created since 1/1/00	All requested data.

1/ CSXT objected to the Interrogatory or Request For Production in its entirety.

2/ TPI and CSXT have had discussions regarding the relationships between CSXT and short line railroads. Interrogatory No. 6 also deals with short line railroads and is tied to RFP 17

3/ Do not know of CSXT's position regarding production in response to this Interrogatory.

4/ Subpart (a.) has been provided only coal trains received and delivered to BNSF and UP. Subpart (a.) is applicable to all interchanged trains.

5/ CSXT has not responded to this Request For Production.

Exhibit 5



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FOUNDED 1866

October 14, 2010

By Email and First Class Mail

Jeffrey O. Moreno
Thompson Hine, LLP
1920 N Street, N.W., Suite 800
Washington, D.C. 20036

Re: Total Petrochemicals USA, Inc. v. CSX Transportation, Inc., STB Docket No. 42121

Dear Jeff:

We write in response to Total Petrochemicals USA, Inc.'s ("TPI's") October 8 letter asserting that "CSXT has not yet responded to a significant number of TPI's discovery requests." J. Moreno Letter to P. Hemmersbaugh (Oct. 8, 2010). Neither that assertion nor the purported "inventory" TPI uses to support it is accurate.

In the first place, CSXT has already responded to the vast majority of TPI's discovery requests, which number well over 700 including subparts. The number, scope, and breadth of TPI's discovery requests are unprecedented and dwarf those of any previous SAC case in which CSXT has been involved. The burden and difficulty of responding to TPI's sweeping requests have been heightened by TPI's repeated objections to the format of data produced by CSXT and TPI's demands that data be re-produced according to TPI's specifications – regardless of how the data is kept by CSXT in the ordinary course of business. Under well-established discovery rules, CSXT has no obligation to reformat such data for TPI's convenience. Nonetheless, in an effort to compromise and minimize disputes, CSXT has spent considerable time, energy, and money to meet TPI's exacting and too-often unreasonable demands and queries. As a result of CSXT's extraordinary efforts, we expect to complete production for nearly all remaining requests from TPI's First, Second, Third, Fourth, and Fifth Sets of Discovery Requests to which CSXT has not objected by October 15. Any data that is not produced by October 15 will be produced shortly thereafter.¹

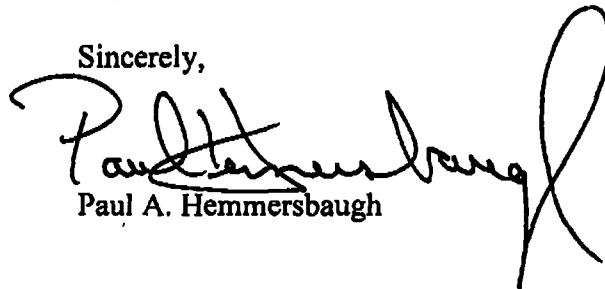
¹ The timing of CSXT's completion of discovery responses in this case depends, in the first instance, upon the timing of TPI's service of discovery requests. TPI waited to serve its seventh

Jeffrey O. Moreno
October 14, 2010
Page 2

Moreover, the "inventory" listing produced by TPI is both wrong and misleading. Significantly, for over forty-five requests CSXT has already produced data or information that TPI claims CSXT has not provided. In other cases requested information simply does not exist. And a significant number of the data that TPI complains have "not [been] provided" were not provided because CSXT objected to the discovery request – in objections CSXT served nearly four months ago. The attached document corrects the inaccurate information in TPI's "inventory" and provides the status of CSXT's response to each of the discovery requests named in TPI's October 8 letter.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul A. Hemmersbaugh", with a large, stylized flourish extending from the end of the signature.

Paul A. Hemmersbaugh

Attachment

set of discovery requests until October 11 – a federal holiday falling four days before the close of discovery.

**RESPONSE TO TPI'S LIST OF INTERROGATORIES AND DOCUMENT PRODUCTION REQUESTS FOR WHICH CSXT
ALLEGEDLY HAS NOT PROVIDED DATA**

**(Columns 1, 2, and 3 Replicate Columns in Table Attached to October 8, 2010 TPI Letter. Column 4 Includes the Actual
Status of CSXT's Response to the Discovery Request)**

Interrogatory/ Request for Production (1)	Interrogatory or Request for Production Topic (2)	Item(s) That TPI Claims CSXT Has Not Provided (3)	Actual Status of CSXT's Response to Discovery Request (4)
Int 1	If CSXT does not admit that the Challenged Rates ("Challenged Rates" means the single line and AAR Accounting Rule 11 rate(s) for common carrier rail transportation service that are identified in TPI's Verified Complaint) exceed 180% of VC, explain and provide the RVC percentages and identify the documents that support CSXT's response.	All requested data	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010).
Int 4	Identify who prepared responses to TPI's requests	All requested data	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010).
Int 7	CSXT rail yards	Subparts (a.) through (f.), subpart (g.) items ii. through v.) and subpart (h.), items ii. through ix.) Requested identification of inputs.	CSXT answered this interrogatory by identifying all requested programs on June 23, 2010. Please explain what TPI means by "identification of inputs" and why TPI believes that its demand for "inputs" is relevant.
Int 10	Locomotive and/or train performance		Responsive data has been produced.
Int 12	Road Trains	Subparts (d.) through (h.).	Responsive information for subparts e.-h. is available from the traffic data CSXT produced on September 23 and October 6. Data for subpart d is not available.
Int 13	Intermodal terminals or yards	Subparts (b.), (d.) and (e. items i, ii, iii.).	Responsive data will be produced soon. Data for subpart e is not available.
Int 14	Intermodal trains	Subparts (c.) through (g.).	Responsive data has been produced.
Int 15	Automotive Distribution Centers	Subpart (c.)	Responsive information for subparts e.-h. is available from the traffic data CSXT produced on September 23 and October 6. Data for subpart d is not available.
Int 16	Automotive Trains	Subparts (c.) through (g.).	Responsive data has been produced. Data for subpart c is not available.
			Responsive information for subparts e.-h. is available from the traffic data CSXT produced on September 23 and October 6. Data for subpart d is not available.

Interrogatory/ Request for Production (1)	Interrogatory or Request for Production Topic (2)	Item(s) That TPI Claims CSXT Has Not Provided (3)	Actual Status of CSXT's Response to Discovery Request (4)
RFP 9	Documents created, reviewed or referred to by CSXT from 1/1/2006 to present to assess the market for transportation of each TPI Shipment and to set rates on each TPI shipment, including but not limited to any competitive alternatives to CSXT rail transportation.	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010)
RFP 10	Documents created, reviewed or referred to by CSXT from 1/1/2006 to present to assess the market for transportation of each Commodity and to set rates on each movement of such commodities.	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010).
RFP 11	Documents created, reviewed or referred to by CSXT from 1/1/2006 to present to assess the market for transportation in any of the SARR States for each Commodity and to set rates on each movement of such commodities	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010).
RFP 14	Intermodal terminals or yards, automotive distribution centers, TRANSFLO terminals	All requested data for intermodal terminals or yards.	Responsive data has already been produced See CSX-TPI-C-DVD-010, CSX-TPI-C-DVD-041, CSX-TPI-HC-DVD-056. Additional data on track layouts is being produced today on CSX-TPI-C-DVD-080.
RFP 16	Construction of Industrial Tracks	CSXT policy on the construction of industrial tracks.	Responsive data has been produced. See Engineering Standards produced on July 9, 2010 at CSX-TPI-C-001685--009374.
RFP 17	Short Line Railroads	Subparts (e.) and (f.).	No information on subpart e is available. Data responsive to subpart f. will be produced soon.
RFP 18	Operating Statistics and Density	All requested data.	Responsive data has been produced. See CSX-TPI-C-DVD-005; CSX-TPI-C-DVD-049; CSX-TPI-C-DVD-055; CSX-TPI-C-040810. Also, information on operating statistics is available from the traffic data CSXT produced on September 23 and October 6.
RFP 19	Density	Subparts (e., item ii.) and (f., item i.)	A substantial amount of density information has already been produced. See CSXT-TPI-C-DVD-005; CSXT-TPI-C-DVD-049; CSXT-TPI-C-DVD-055; CSXT-TPI-C-040810. The additional detail requested by TPI is not available.
RFP 20	Revenue and Traffic	2008 and 2010 data and subparts (ii.) and (kk.)	Responsive data already produced. 2010 traffic data was produced on CSX-TPI-HC-DVD-057 and CSX-TPI-HC-EHD-002. 2008 traffic data will be produced soon. On June 23 CSXT objected to subparts ii and kk. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010)

Interrogatory/ Request for Production (1)	Interrogatory or Request for Production Topic (2)	Item(s) That TPI Claims CSXT Has Not Provided (3)	Actual Status of CSXT's Response to Discovery Request (4)
RFP 21	Car, Locomotive, and Train Movement	2008 and 2010 data	Responsive data already produced. 2010 traffic data was produced on CSX-TPI-HC-DVD-057 and CSX-TPI-HC-EHD-002. 2008 traffic data will be produced soon
RFP 23	Documents necessary to utilize, evaluate and link the data produced in RFP 20, 21, 22.		Responsive information has been produced. This information was produced with the traffic data CSXT has produced.
RFP 24	All studies, analyses, reports, or other documents that evaluate or report on CSXT's implementation and recent update of its "ONE Plan".	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010).
RFP 25	All studies, analyses, reports, or other documents that evaluate or report on CSXT's implementation of its "Total Service Integration".	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010).
RFP 26	CSXT's geographic information system that captures, stores, analyzes, manages and presents CSXT data that are linked by locations across the CSXT rail system.	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010). Despite this objection, CSXT notes that it has produced a large amount of GIS data to TPI on CSXT-TPI-HC-DVD-037.
RFP 28	Working copies of the 11 specified analytical models or tools utilized by CSXT and/or CSXI to develop commercial or operation plans for CSXT	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010)
RFP 30	CSXT Forecasts	All requested data	Responsive data will be produced soon.
RFP 31	All inflation and/or rail cost adjustment estimates or calculations in CSXT's possession or that CSXT prepared or caused to be prepared or purchase.	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010). As agreed at the parties' meet-and-confer, CSXT confirmed that it does not possess any nonpublic estimates relating to land values along CSXT's right of way.
RFP 32	Documents related to the development of the methodology for the calculation and imposition of the "fuel surcharges" described in CSXT's fuel Surcharge Publication 8661-B and all predecessor documents.	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010).
RFP 33	To the extent not produced in RFP 32, documents related to the consideration of alternative fuel surcharge methodologies.	All requested data	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010).
RFP 34	Databases, data warehouses, and computer programs sufficient to show all the data requested in TPI's RFP 20 for each trailer, container, Auto Rack Car or freight car, handled by CSXT (includes CSXI TDSI and TRANSFLO).	See RFP 20.	
RFP 35	Documents sufficient to link data records for trailer, container, Auto Rack Car and/or freight cars that CSXT will produce in response to RFP 34 to the corresponding data records appearing in the CSXT waybill/car movement/train movement records or files that CSXT will produce in response to TPI's RFP 20, 21 and 22	See RFPs 20, 21 and 22.	See response for RFPs 20, 21 and 22.

Interrogatory/ Request for Production (1)	Interrogatory or Request for Production Topic (2)	Item(s) That TPI Claims CSXT Has Not Provided (3)	Actual Status of CSXT's Response to Discovery Request (4)
RFP 36	Databases, data warehouses, and computer programs sufficient to show all of the data requested in TPI's RFP 20, including but not limited to revenue received by CSX from its customers ("freight revenue"), in connection with traffic described in TPI's RFP 20, for each year or partial year 2008 to the present	See RFP 20.	See response for RFP 20.
RFP 37	CSXT Served Origin Mines	Subparts (e.) through (g.) and (i.)	Responsive data has been produced. See CSX-TPI-C-DVD-035. For subpart e, data separately delineating CSXT-owned and non-CSXT-owned track capacity is not available. Data for subparts g and i is not available. Data for subparts h and j is available in the traffic data CSXT has produced.
RFP 38	Any studies, simulations, analyses and other documents in CSXT's possession from 1/1/2003 to present analyzing or related to the transportation of shipments to Destinations from Origins (a) by a rail carrier(s) other than CSXT, and (b) by any mode of transportation other than rail	All requested data.	Responsive data has been produced. See CSX-HC-DVD-048.
RFP 40	Documents that identify and list the location and type of communications signals used for train operations by milepost, division, and subdivision on all CSXT line segments in the SARR States	All requested data.	No responsive data exists
RFP 41	Documents that depict individual tracks, connections to the main line, turnouts, communications, signals and elevations for all yards on the CSXT system which are located in the SARR States.	All requested data.	Responsive data has been produced. See CSX-TPI-C-DVD-009; CSX-TPI-HC-DVD-017A.
RFP 43	Rail Traffic Controller ("RTC")	Subpart (c.)	CSXT has already produced an external hard drive with RTC Studies. See CSX-TPI-HC-EHD-001. If TPI desires additional output files for those studies, it can generate output files by running its RTC model with the data CSXT has produced.
RFP 46	The computer model, supporting databases and supporting manuals that are used by CSXT to calculate the expected cycle time for a movement, including all necessary inputs required to run the model.	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010)
RFP 47	Car inspection	Subparts (a.), (c.), (d.) and (f.) through (k.)	Responsive data will be produced soon
RFP 48	Car inspection	All requested data.	Responsive data will be produced soon
RFP 51	Locomotive Roster	All requested data.	Responsive data has been produced. See CSX-TPI-HC-DVD-027; CSX-TPI-HC-DVD-036.
RFP 53	Locomotive Leases	All requested data for the specific locomotive leases listed on Attachment No. 1 to CSXT on August 27, 2010.	Responsive data will be produced soon.
RFP 54	Helper services	All requested data.	Responsive data will be produced soon.
RFP 55	Fuel consumption - actual	Subparts (b.) through (f.)	Responsive data will be produced soon.
RFP 56	Fuel consumption studies	All requested data.	Responsive data will be produced soon.

Interrogatory/ Request for Production (1)	Interrogatory or Request for Production Topic (2)	Item(s) That TPI Claims CSXT Has Not Provided (3)	Actual Status of CSXT's Response to Discovery Request (4)
RFP 60	Documents which describe and explain how CSXT assigns locomotives to each train on CSXT's system.	All requested data.	Responsive data will be produced soon.
RFP 62	Any studies performed by or for CSXT from 1/1/2003 to the present related to the increase in the number of railcars required to handle shipments during seasonal peak traffic periods.	All requested data.	Responsive data has been produced. See CSX-TPI-HC-DVD-008; CSX-TPI-HC-DVD-028
RFP 63	Any locomotive spare margin study performed by CSXT from 1/1/2003 to date that includes locomotives used (a) in coal services and/or (b) in other service to, from, or through the SARR States.	All requested data.	Responsive data has been produced. See CSX-TPI-HC-DVD-055
RFP 64	Any railcar spare margin study performed by or for CSXT from 1/1/2003 to the present that includes railcars used: (a) in coal services; and/or (b) in other services to, from or through the SARR States.	All requested data.	No responsive data exists.
RFP 65	Crew districts	Subpart (c.)	Responsive data has been produced. The number of locomotive units per train can be determined from the traffic data and train sheets CSXT has produced. Data specifying which locomotive units were in a distributed power train configuration does not exist
RFP 67	Hazardous Materials Operating Rules	Subpart (c.)	No special routing instructions are available.
RFP 68	Documents sufficient to identify switch crew assignments, hump crew assignments, local train assignments, the number of cars handled over each hump yard per day and the number of hazardous material cars handled at each hump yard per day which by-pass the hump operation at each year for each CSXT rail yard referred to in INT 7.	All requested data	Responsive data will be produced soon.
RFP 70	Documents, reports analyses or studies provided to any Federal or state agencies which discuss or describe CSXT's compliance with regulations for handling, routing, or proposed routing of hazardous materials.	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010).
RFP 75	Joint Facilities	Subparts (b.) through (d.) for the specific joint facilities requested on August 27 in Attachment No. 2, Pages 1 through 9.	CSXT is investigating what information is available that is responsive to TPI's letter request.
RFP 77	Purchased or leased freight cars.	All requested data for the specific purchased or leased freight cars listed on Attachment No. 3 to CSXT on August 27, 2010.	Responsive data will be produced soon.
RFP 81	Purchased or leased auto racks	All requested data for the specific purchased or leased auto racks listed on Attachment No.3 to CSXT	Responsive data will be produced soon.
RFP 82	TDSI Assets	Requested detailed description of TDSI assets. Produce referenced contracts and a tie for each contract to the produced data.	Responsive data has been produced. See CSX-TPI-HC-DVD-028.
RFP 85	Railcar repair and maintenance data	All requested data.	Responsive data will be produced soon.
RFP 86	Shipper-owned and shipper-leased railcars and intermodal and automotive railcars	All requested data.	Responsive data will be produced soon.
RFP 87	Railcar maintenance agreements	All requested data.	Responsive data will be produced soon.

Interrogatory/ Request for Production (1)	Interrogatory or Request for Production Topic (2)	Item(s) That TPI Claims CSXT Has Not Provided (3)	Actual Status of CSXT's Response to Discovery Request (4)
RFP 90	Documents that show all items of expense and the associated dollar amount of each expense item included in CSXT's R-1 Annual Report to the STB Schedule 410, Column (c), Lines 202, 403, and 411 for years 2008 and 2009	All requested data.	Responsive data will be produced soon.
RFP 94	CSXT individual locomotive engineer, conductor, dispatcher and equipment inspector	Requested number of shifts worked per year, requested length of employment, identification of type of employee for each employee and decoder for field labeled "NA1" in the data provided.	Data responsive to this request was produced on CSX-TPI-HC-DVD-040. The additional fields requested by TPI are not available. A "1" in the NA1 column represents a capital expense; a "5" represents an operating expense.
RFP 103	Hazardous Materials - Operating or Administrative Expenses	Subparts (b.) and (c.).	Data responsive to this request was produced on CSX-TPI-HC-DVD-011, CSX-TPI-HC-DVD-028, CSX-TPI-HC-DVD-029, and CSX-TPI-HC-DVD-034 CSXT does not possess data categorizing expenses in the manner requested in subparts b and c.
RFP 105	CSXI, TDSI, TRANSFLO, CSX Tech and CSX Corporation Agreements with CSXT Charging CSXT	Subparts (b.) through (d.).	Responsive data has been produced. See CSX-TPI-HC-DVD-008; CSX-TPI-HC-DVD-011.
RFP 107	CSX Technology	Subparts (a.) and (e.).	Responsive data has been produced. See CSX-TPI-HC-DVD-056.
RFP 108	CSXI, TDSI, TRANSFLO, CSX Tech and CSX Corporation Agreements and bills with CSXT Charging CSXI, TDSI and TRANSFLO	Subparts (e.) and (f.).	Responsive data has been produced. See CSX-TPI-HC-DVD-008; CSX-TPI-HC-DVD-011.
RFP 109	Assets for each intermodal yard or terminal served by CSXI	Subpart (d.).	Responsive data has been produced. See CSX-TPI-HC-DVD-056.
RFP 112	Facilities	Subparts (n.) and (o.).	Responsive data has been produced. See CSX-TPI-HC-DVD-026.
RFP 114	Security Requirements	Subparts (a.) through (e.) and (g.) through (h.).	Data responsive to this request was produced on CSX-TPI-HC-DVD-028 and CSX-TPI-HC-056. The additional detail requested by TPI is not available.
RFP 116	Purchased services by CSXI, TDSI and/or TRANSFLO	Requested a detailed description of the purchased services. Produce the referenced contracts and a tie for each contract to the produced data.	Data responsive to this request was produced on CSX-TPI-HC-DVD-028, CSX-TPI-HC-DVD-034, and CSX-TPI-HC-039. The additional detail requested by TPI is not available.
RFP 117	Third party computer outsourcing	Requested analyses of the estimated and/or actual savings realized by CSX and each of its subsidiaries from such outsourcing.	No responsive data exists.
RFP 118	Contribution or payment by any governmental or quasi-governmental entity for construction, upgrading and/or maintenance of any CSXT track, facility or structure and/or operating expenses	All requested data for the specific items from Attachment No.2, pages 10 and 11 provided to CSXT on August 27, 2010.	Responsive data is being produced today on CSX-TPI-HC-DVD-061.
RFP 119	Ultrasonic rail testing and track geometry testing	All requested data.	Ultrasonic testing materials were produced on CSX-TPI-HC-DVD-037. Track geometry information will be produced soon.

Interrogatory/ Request for Production (1)	Interrogatory or Request for Production Topic (2)	Item(s) That TPI Claims CSXT Has Not Provided (3)	Actual Status of CSXT's Response to Discovery Request (4)
RFP 123	Construction Standards and Estimating Procedures	Subpart (a.) for bridges; culverts; yard and roadway buildings; fueling facilities; and waste water treatment facilities and Subpart (b.) for all projects.	Responsive data has been produced. See CSX-TPI-C-001685-009374. Subpart b information on whether projects were performed under traffic is not available.
RFP 125	Grading construction activities	All requested data.	As the parties agreed at their meet-and-confer, CSXT provided a list of additional AFEs responsive to this request on CSX-TPI-HC-DVD-048. TPI has not yet selected any of those AFEs for inspection.
RFP 126	Grading construction costs	All requested data.	As the parties agreed at their meet-and-confer, CSXT provided a list of additional AFEs responsive to this request on CSX-TPI-HC-DVD-048. TPI has not yet selected any of those AFEs for inspection.
RFP 127	Culverts	Requested number of tracks crossed, cost of material and cost of installation.	Responsive data has been produced. Requested cost information is available in the AFEs listed on CSX-TPI-HC-DVD-048. Information on number of tracks crossed is not available.
RFP 128	Ballast and Sub-ballast	Subparts (d.) through (f.)	Responsive data has been produced. See CSX-TPI-HC-DVD-048. The additional details requested in subparts d through f is not available.
RFP 129	AFEs for projects greater than \$500,000	Subpart (d.) for all AFEs requested on August 27 in Attachment No. 4.	Responsive data has been produced. See CSX-TPI-HC-DVD-042. Information on whether projects were performed under traffic is not available.
RFP 130	Documents for any projects that a carrier other than CSXT has undertaken in the SARR States since 1/1/2007 for which CSXT paid for some or all of the project.	All requested data.	Responsive data has been produced. See CSX-TPI-HC-DVD-042.
RFP 131	Tunnels	Subparts (d.) through (g.)	Responsive data has been produced. See CSX-TPI-C-DVD-041. The additional details requested in subparts d through g are not available.
RFP 133	Bridge list	Subparts (g) through (h.) and (j.) through (l.)	Responsive data has been produced. See CSX-TPI-C-DVD-041 and CSX-TPI-C-DVD-055. The additional details requested in subparts g through h and j through l is not available.
RFP 134	Documents for Projects Relating to Bridge construction or replacement	See RFP 129 above.	Responsive data has been produced. See CSX-TPI-HC-DVD-042. Information on whether projects were performed under traffic is not available.

Interrogatory/ Request for Production (1)	Interrogatory or Request for Production Topic (2)	Item(s) That TPI Claims CSXT Has Not Provided (3)	Actual Status of CSXT's Response to Discovery Request (4)
RFP 135	Documents for Projects Relating to Signals construction or operation	See RFP 129 above.	Responsive data has been produced. See CSX-TPI-HC-DVD-042. Information on whether projects were performed under traffic is not available.
RFP 136	Communication sites	Subparts (d.) through (g.).	Responsive data has been produced. See CSX-TPI-HC-DVD-039. As for subpart d, CSX does not utilize microwave communications. The detailed information requested in subparts e-g is not available or not applicable.
RFP 137	Construction and maintenance of communication sites	Subparts (b.) through (c.).	Responsive data has been produced. See CSX-TPI-HC-DVD-041. As for subparts b and c, CSX does not utilize microwave communications.
RFP 138	At-grade and grade-separated highway crossings	Subparts (e.) through (f.) and (i.) through (l.)	Responsive data has been produced. See CSX-TPI-C-DVD-033. The detailed information requested in subparts e, f, and i-l is not available.
RFP 139	CSXT's system's highway and at-grade railroad crossings	All requested data.	Responsive data has been produced. See CSX-TPI-HC-DVD-042.
RFP 140	For each highway crossing identified in response to RFP #138, please provide documents, for each year or partial year 2007 to the present, that show separately for each crossing, any monies received by CSXT from any other party to compensate CSXT for the use of the crossing, including, but not limited to, monies for construction, maintenance, easement payments, etc.	All requested data.	A list of all crossing-related government contracts is being produced today on CSX-TPI-HC-DVD-061.
RFP 142	Documents sufficient to describe the specifications, functions, operation and costs, during each of the years 2007 to the present, of any communications system equipments other than microwave towers used to transmit data from devices such as mobile two-way radios, portable two-way radio, FEDs, AEI scanners and EOTDs across all or any part of the CSXT system.	All requested data.	Responsive data has been produced. See CSX-TPI-C-DVD-040.
RFP 143	Fiber optic cable(s)	All requested data.	Responsive data will be produced soon.
RFP 144	Fiber optic cable(s)	All requested data.	CSX does not utilize a fiber optic network.
RFP 145	Electricity	Subpart (a.)	Responsive data has been produced. See CSX-TPI-C-DVD-029. The detailed information requested in subpart a is not available.
RFP 146	Fencing	All requested data.	No responsive data exists.

Interrogatory/ Request for Production (1)	Interrogatory or Request for Production Topic (2)	Item(s) That TPI Claims CSXT Has Not Provided (3)	Actual Status of CSXT's Response to Discovery Request (4)
RFP 148	Unredacted and fully executed copy of CSXT's Positive Train Control Implementation Plan filed with the Federal Railroad Administration	All requested data	Responsive non-SSI data has been produced. CSXT produced a redacted version of its Positive Train Control Implementation Plan on CSX-TPI-HC-DVD-026 and an updated version of the plan on CSX-TPI-HC-DVD-048. On June 23 CSXT informed TPI of CSXT's objection to producing the unredacted version of the plan, which includes Sensitive Security Information. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010)
RFP 149	All studies, analyses, detailed plans and estimates developing CSXT's estimated costs to design, install and maintain the Positive Train Control system detailed in CSXT's Positive Train Control Implementation Plan filed with the Federal Railroad Administration on April 16, 2010	All requested data	Responsive data will be produced soon.
RFP 151	CSXT's Federal Tax Returns for the years 2007 to 2009, including all schedules and worksheets showing the calculation and development of bonus depreciation allowed under the Economic Stimulus Act of 2008 and the American Reinvestment and Recovery Act.	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010)
RFP 152	Confidential and highly confidential documents that CSXT produced to complainant in STB Docket NOR no. 42110, <u>Seminole Electric Cooperative, Inc. v. CSX Transportation, Inc.</u>	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010)
RFP 155	Computer-Readable Data.	Subparts (a), (e.) through (l), (n.), (r.), (s.), (v.), (w.), (aa.) and (dd.)	Responsive data has already been produced for nearly all of these subparts, and data has been and will be produced in computer readable format where it is available in that format.
RFP 156	CSXI contracts, and all tariffs, common carrier pricing authorities or other documents.	All requested data.	CSXT has produced traffic data from which TPI may identify any contracts it wishes to review.
RFP 157	CSXI forecasts.	All requested data.	Responsive data will be produced soon.
RFP 158	Please produce copies of any documents, reports, analyses, or studies provided to any Federal or state agencies which discuss or describe CSXI's and/or TRANSFLO's compliance with regulations for handling, routing or proposed routing of hazardous materials.	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to First Set of Discovery Requests (served June 23, 2010)
RFP 159	CSXI railcar maintenance agreements and dollars and associated car-miles	All requested data.	Responsive data is being produced today on CSX-TPI-HC-DVD-061.
RFP 160	Liability expense incurred as a result of CSXI's and/or TRANSFLO's handling hazardous materials	All requested data.	Responsive data has been produced. See CSX-TPI-HC-DVD-029.

Interrogatory/ Request for Production (1)	Interrogatory or Request for Production Topic (2)	Item(s) That TPI Claims CSXT Has Not Provided (3)	Actual Status of CSXT's Response to Discovery Request (4)
RFP 161	Operating or administrative expenses incurred by CSX and/or TRANSFLO for each year from 2008 to the present as a result of handling hazardous materials, including, but not limited to, items such as switching expenses, insurance expenses, station derrick, car, container or trailer cleaning expenses, accident clean-up expenses, and/or billing expenses.	All requested data.	Responsive data has been produced. See CSX-TPI-HC-DVD-011, CSX-TPI-HC-DVD-028, CSX-TPI-HC-DVD-029, and CSX-TPI-HC-DVD-034.
RFP 162	Please provide copies of CSX's 2008 and 2009 state income tax returns for the SARR States, including all state tax credit worksheets.	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to Fourth and Fifth Sets of Discovery Requests (served October 11, 2010)
RFP 163	Please produce specific RTC files (listed in Subparts a-q) created since 1/1/00	All requested data.	CSXT objected to this request in its entirety. See CSXT Responses to Fourth and Fifth Sets of Discovery Requests (served October 11, 2010)

Exhibit 6

October 27, 2010

By E-Mail and First Class Mail

Paul Hemmersbaugh
Sidley Austin LLP
1501 K Street, NW
Washington, DC 20005

**RE: TOTAL Petrochemicals USA, Inc. v. CSX Transportation, Inc. et al., STB
Docket No. 42121**

Dear Paul:

I am writing in follow-up to your October 14, 2010 letter, in which you replied to my October 8, 2010 letter regarding the status of responses by CSX Transportation, Inc. ("CSXT") to the discovery requests of TOTAL Petrochemicals USA, Inc. ("TPI"). Your letter represented that CSXT has completed its responses to multiple requests, but also stated that CSXT still would be producing additional documents in response to many of TPI's discovery requests. Because we are nearly two weeks beyond the close of discovery in the procedural schedule, I am writing to ascertain what is CSXT's schedule for completion of its discovery responses, and to point out discovery requests to which CSXT has not fully responded, despite contrary assertions in your October 14 letter.

As an initial matter, TPI has posed several follow-up questions, based upon its review of CSXT's production, to which CSXT has not responded. In Attachment No. 1 to this letter, I have provided a list of TPI's correspondence that contain those follow-up questions. Please state when TPI can expect to receive CSXT's responses.

Your October 14 letter identified several discovery requests to which CSXT would shortly provide responses. TPI has not yet received responses to the following requests identified by CSXT for further response:

1. Interrogatory Nos. 13 and 24; and
2. Request for Production ("RFP") Nos. 21, 60, 68, 75, 77, 81, 85, 140, 143, 155 and 159.

Please provide CSXT's anticipated time table for completing its responses to these discovery requests.

Finally, TPI has reviewed CSXT's claims that it has fully responded to other discovery requests, and determined that CSXT's responses do not appear to be complete. Those discovery requests are:

Jeff.Moreno@ThompsonHine.com Phone 202.263.4107 Fax 202.331.8330

227732.1

October 27, 2010

Page 2

RFP No. 16: CSXT claims that it has produced responsive documents and refers TPI to CSX-TPI-C-001685-009374. TPI has reviewed those documents, but they are not responsive to this RFP. CSXT's referenced documents pertain to Maintenance of Way information, Air Brake Rule Books, Hazardous material information, Operating Rules, Signal Aspects, billing instructions and signal and switch drawings. None of this information is responsive to this RFP.

RFP No. 41: CSXT claims that it has produced responsive information. CSXT's responses, however, do not include yard elevations. Therefore, TPI requests that CSXT complete its response to this RFP by producing that information.

RFP Nos. 43 and 163: Regarding RFP No. 43, CSXT states that TPI's consultants can run the provided RTC cases to develop the appropriate output files. However, without being able to verify that the RTC cases provided by CSXT produce the same results as when originally run by CSXT, TPI cannot be certain that the models provided by CSXT are the same as used by CSXT in the normal course of business. Therefore, TPI still requires a complete response to RFP No. 43.

Regarding RFP No. 163, CSXT objected on the grounds that it was duplicative of an earlier request, and that CSXT did not have any such system-wide RTC case simulation. CSXT's position is contradicted by the attached April 2010 presentation made by CSX Vice President Steven Potter at the University of Illinois, which refers to a base case system-wide solution for capacity planning that CSXT has developed using the RTC model. See Slide #13.

RFP Nos. 70 and 158: These RFPs request the same information, but as to different entities. CSXT has raised two objections. The first objection is to the extent these RFPs include Security Sensitive Information ("SSI") and the second objection is based on relevance. Because the SARR will step into the shoes of CSXT, CSXT's compliance with federal and state regulations for handling and routing hazardous materials will be relevant to how the SARR will be required to handle and route that same traffic. Therefore, CSXT's relevance objection is improper. Please state whether CSXT's SSI objection nevertheless would encompass the entirety of CSXT's response to these RFPs.

RFP No. 105: CSXT claims that it has responded to this RFP. Although CSXT has produced agreements regarding the costs that CSXT bills to TDSI, TRANSFLO and CSX Technology, it has not produced agreements regarding costs that the latter bill back to CSXT. Such agreements are the subject of subparts (b), (c) and (d) of this RFP. TPI requests that CSXT produce those agreements.

October 27, 2010

Page 3

RFP No. 118: On October 14, 2010 CSXT provided CSX-TPI-HC-DVD-61, which it claims provide the information requested related to RFP No. 118. That DVD provides a replacement list of agreements with government entities related to crossings, but it does not provide the Passenger agreements identified on pages 10 and 11 of Attachment No. 2 to TPI's August 27, 2010 letter to CSXT. Please provide these agreements.

RFP NO. 134: In its response, CSXT has referred TPI to various AFEs that CSXT has produced. However, much of the information requested by this RFP is not found in the AFEs. Information requested in subparts (b) and (l) are not included in the AFE data provided by CSXT. In addition, the information requested in subparts (c) through (e), (j) and (k) are not included in the supporting documents provided by CSXT for several of the AFEs selected by TPI. CSXT also has not provided the AFEs or any supporting documents for several AFEs selected by TPI.

RFP NO. 135: In its response, CSXT has referred TPI to various AFEs that CSXT has produced. However, much of the information requested by this RFP is not found in the AFEs. Specifically, the AFE documents provided by CSXT contain mainly aggregate levels of cost detail (e.g., by account) and not the detailed identification of the components, quantities and costs requested by this RFP.

RFP NO. 139: CSXT stated in its initial response to this RFP that 'it will produce non-privileged, responsive documents.' To date, CSXT has not produced any such documents. In its October 14, 2010 response, CSXT has now referred TPI to various AFEs that CSXT has produced. However, none of the information requested in subparts (a) through (j) are contained in the AFEs requested by TPI simply because TPI was not aware that it was to select AFEs for this request. TPI will review the AFE listings provided by CSXT and identify specific AFEs for which CSXT is to provide copies of the AFEs and all supporting documents containing the information requested in subparts (a) through (j) of this RFP.

RFP No. 142: CSXT claims that it has responded to this RFP. The documents produced by CSXT, however, only provide the aggregate cost of its communication systems. TPI needs to know how those costs break out for each of the communication systems that comprise the aggregate. In addition, CSXT has not provided the specifications for its communication systems equipment or described how it uses that equipment. Please complete CSXT's response.

RFP Nos. 148 and 149: CSXT has produced a redacted copy of its Positive Train Control Implementation Plan filed with the Federal Railroad Administration, but has raised SSI

October 27, 2010

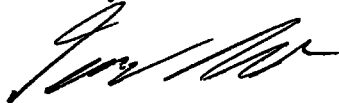
Page 4

objections to the redacted information. Among CSXT's redactions, however, are its PTC implementation costs. TPI needs information regarding CSXT's PTC costs by location. TPI does not understand why that information would be SSI, and therefore, requests that CSXT unredact the PTC cost information.

RFP Nos. 151 and 162: CSXT has objected to producing state and federal tax returns as overbroad, unduly burdensome and irrelevant. Taxes are an integral component of stand-alone costs, and the production of tax returns can hardly be considered burdensome. CSXT also has vaguely stated that its tax returns contain commercially sensitive information. But that can be said of a significant portion of CSXT's production to date, which is why the Board has imposed a Protective Order in this case. In order to address some of CSXT's objections, TPI narrowed the scope of these request in a July 16, 2010 letter to just the amount of Bonus Depreciation claimed by CSXT separately for 2008 and 2009 on CSXT's Federal Tax Returns in Schedule 4562, provided that the amounts are separated by asset class and include the historical cost recorded for the assets related to the claimed bonus depreciation. CSXT has never responded to this narrowed request. Moreover, TPI's stand-alone railroad is entitled to the same tax treatment as CSXT, including the benefit of any state tax credits. As an example, CSXT issued a press release in April 2008 explaining the tax credits and training reimbursement costs it was receiving for placing a dispatching center in West Virginia. There may be other similar tax items that CSXT has not publicized that would be available to the TPI SARR. The one way to verify this information is through a review of CSXT's state tax returns and supporting schedules.

Please let me know when TPI can expect to receive CSXT's responses to both this letter and TPI's prior correspondence, which is referenced herein.

Sincerely,



Jeffrey O. Moreno

Docket No. 42121 TPI Outstanding Follow-up Requests			
TPI Correspondence (1)	Date (2)	RFP No. (3)	Topic (4)
1. E-mail J. Moreno to CSXT counsel transmitting Letter T. Crowley to J. Moreno	10-1-10	13	Decoder or definition for "Profile" included on track charts
2. Letter J. Moreno to CSXT counsel	10-15-10	17	Missing agreements with co-defendant connecting carriers
3. E-mail J. Moreno to CSXT counsel	10-18-10	129	Additional AFE's related to capital projects
4. Letter J. Moreno to CSXT counsel	10-18-10	17	Missing agreements with connecting carriers (CSXT has provided one of four agreements identified)
5. Letter J. Moreno to CSXT counsel	10-20-10	20	Clarification of traffic and revenue data
6. Email J. Moreno to CSXT counsel	10-21-10	120	Missing valuation maps
7. Letter to J. Moreno to CSXT counsel	10-27-10	157 30	Intermodal traffic forecasts Carload traffic forecasts
8. Letter to J. Moreno to CSXT counsel	10-27-10	17 116 40	Missing agreements with connecting carriers Dollar amounts paid to contractors Signal locations



How tomorrow moves

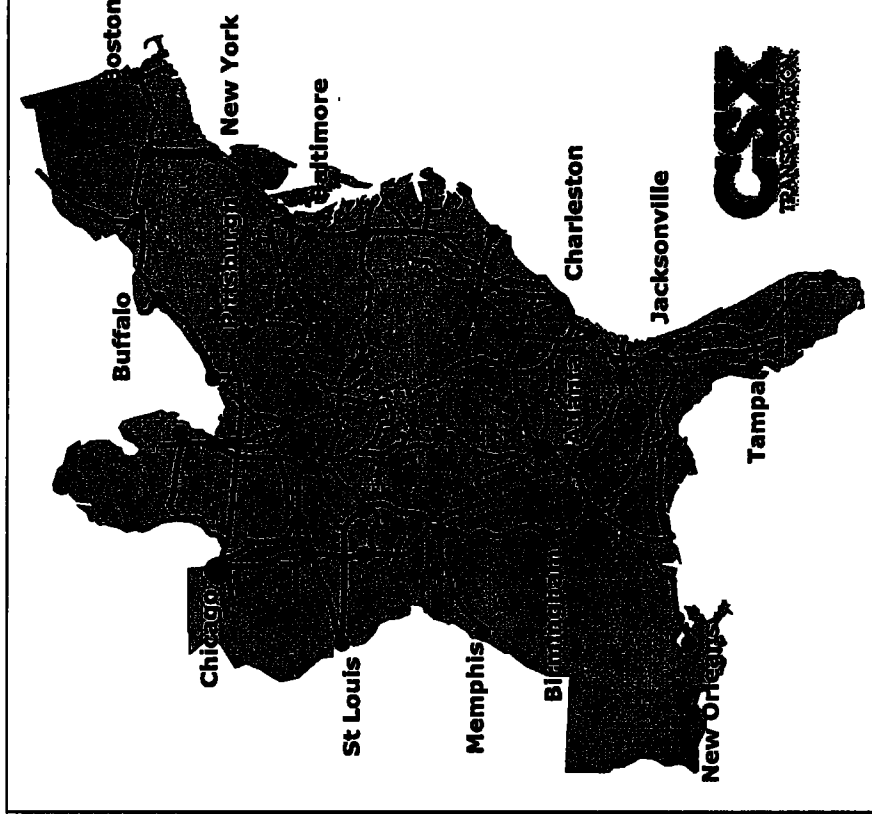


CSXT Network Planning: The View in 2010
University of Illinois at Urbana-Champaign
April 2, 2010

CSX connects the nation and the globe

CSX facts:

- 30,000 employees
- 21,000 route miles
- 1,200+ trains/day
- 5 million+ carloads
- 3,500+ locomotives
- 80,000+ freight cars
- Serves 70 ocean, lake and river ports



CSX
TRANSPORTATION

Our Vision and Values provide guiding principles

- Vision:
 - To be the safest, most progressive North American railroad relentless in the pursuit of customer and employee excellence
- Values:
 - It starts with the customer
 - People make the difference
 - Safety is a way of life
 - Fact based
 - Right results, right way

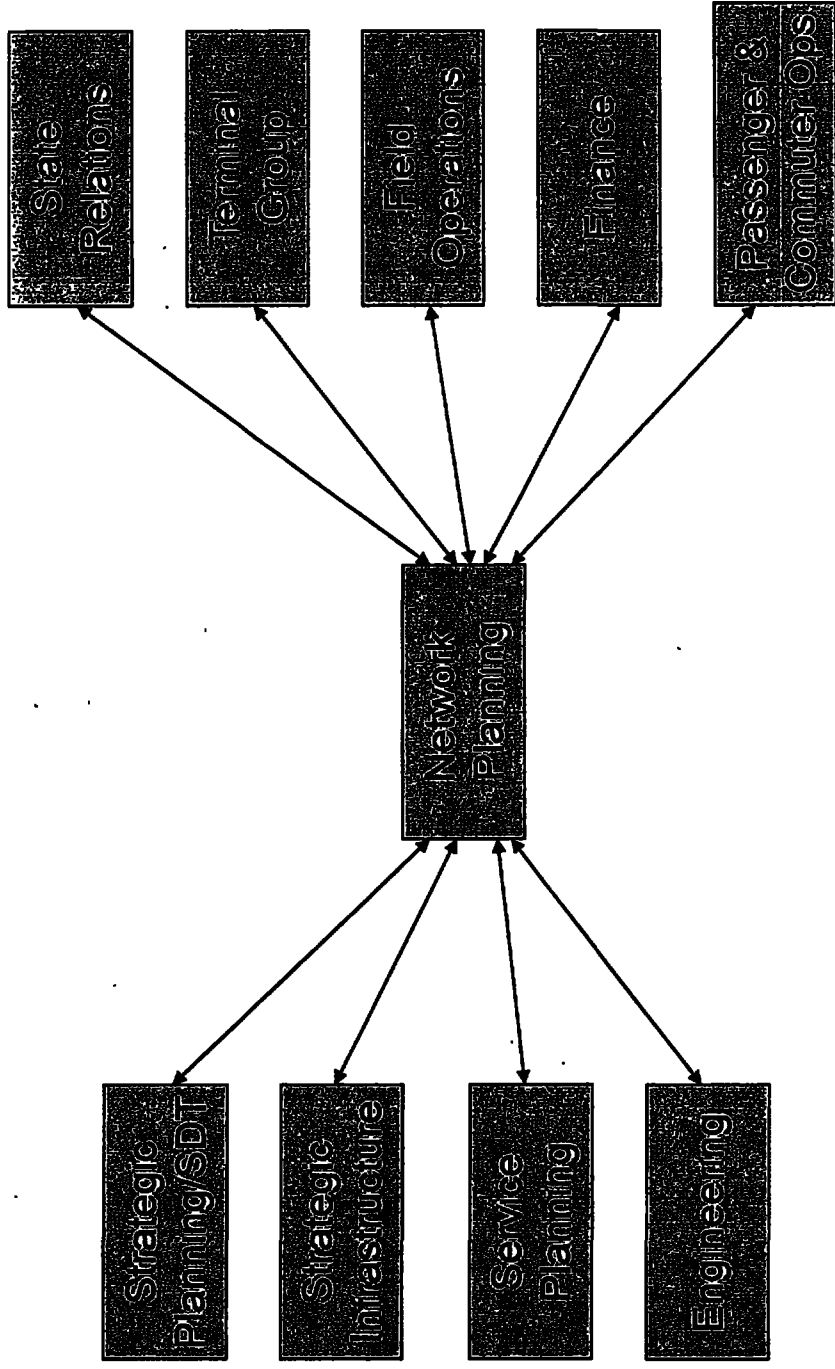


Network Planning is engaged in interesting work

- Infrastructure and capacity improvement projects
- What are the impacts of passenger service on a freight network?
- What models, applied technology and real world experience can we use to solve problems?
- Managing relationships with public agencies, other railroads and consultants
- Managing a Capital Investment Budget
- Preparing and delivering presentations – Selling your work



Network Planning works with a number of other groups at CSX



CSX

Market and economic conditions are improving (although slowly)

- Intermodal, steel, auto, grain, and chemicals
- Exports
- Inventories
- Financial markets
- CAPEX



Managing network capacity is our primary objective. This is not a simple problem.



Operations, Construction & Maintenance Activities

CSX

Congestion can be lowered with management or \$\$\$

- Non-Capital Solutions

- Fleeting trains
- Changing the mix of trains
- Removing or rerouting trains
- Changing the priority of trains
- Changing maintenance windows

- Capital Solutions

- Increasing authorized speed
- Improving the signaling system or adding signaling
- Adding sidings
- Adding segments of double track



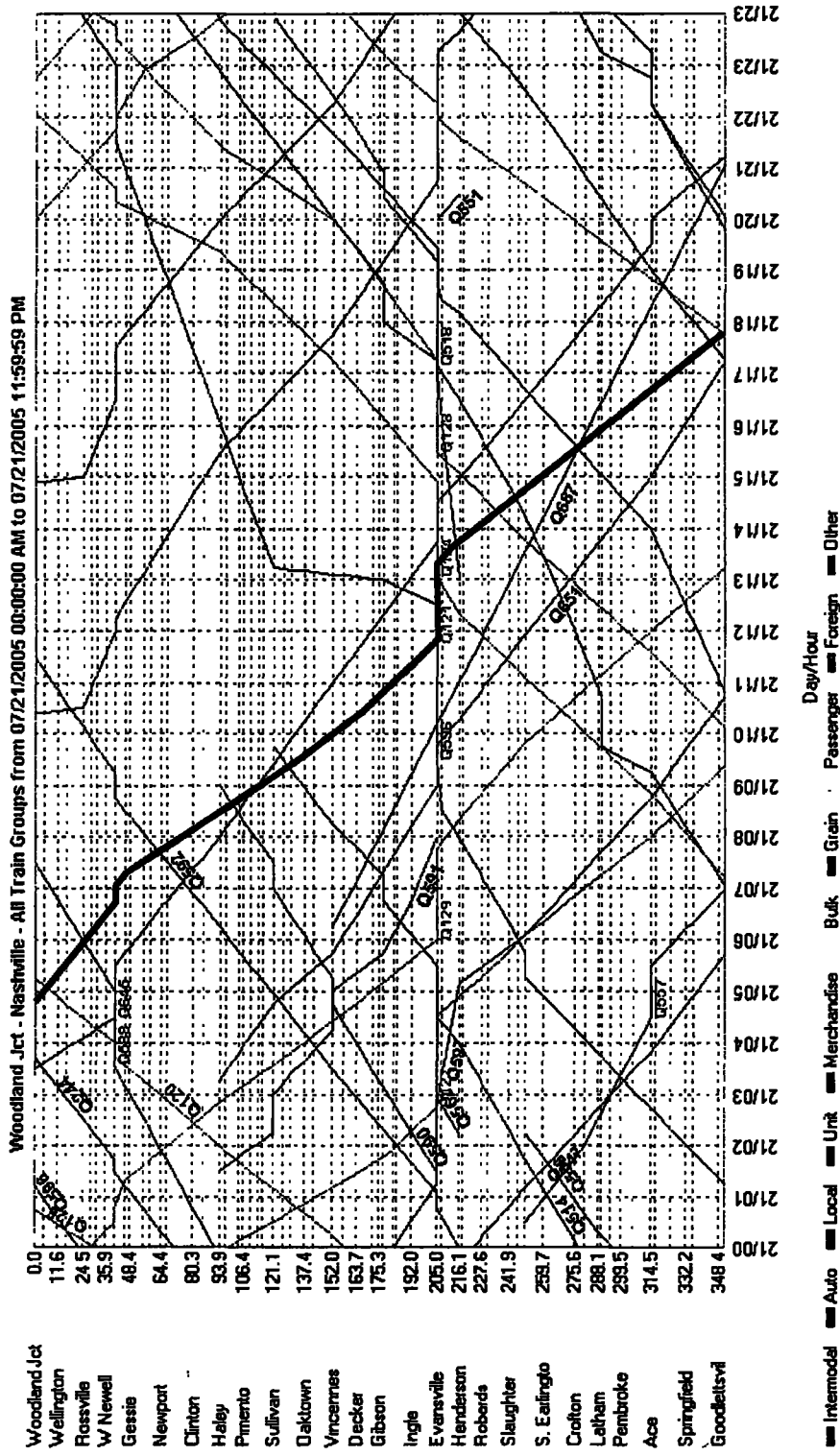
Various tools and techniques help us understand and analyze capacity

- Operations Analyzer
- Bottleneck analysis
- Dispatching Model – Rail Traffic Controller (RTC)
- Signal wake model
- Field observations, input and validation
- Risk evaluation
- Economic analysis



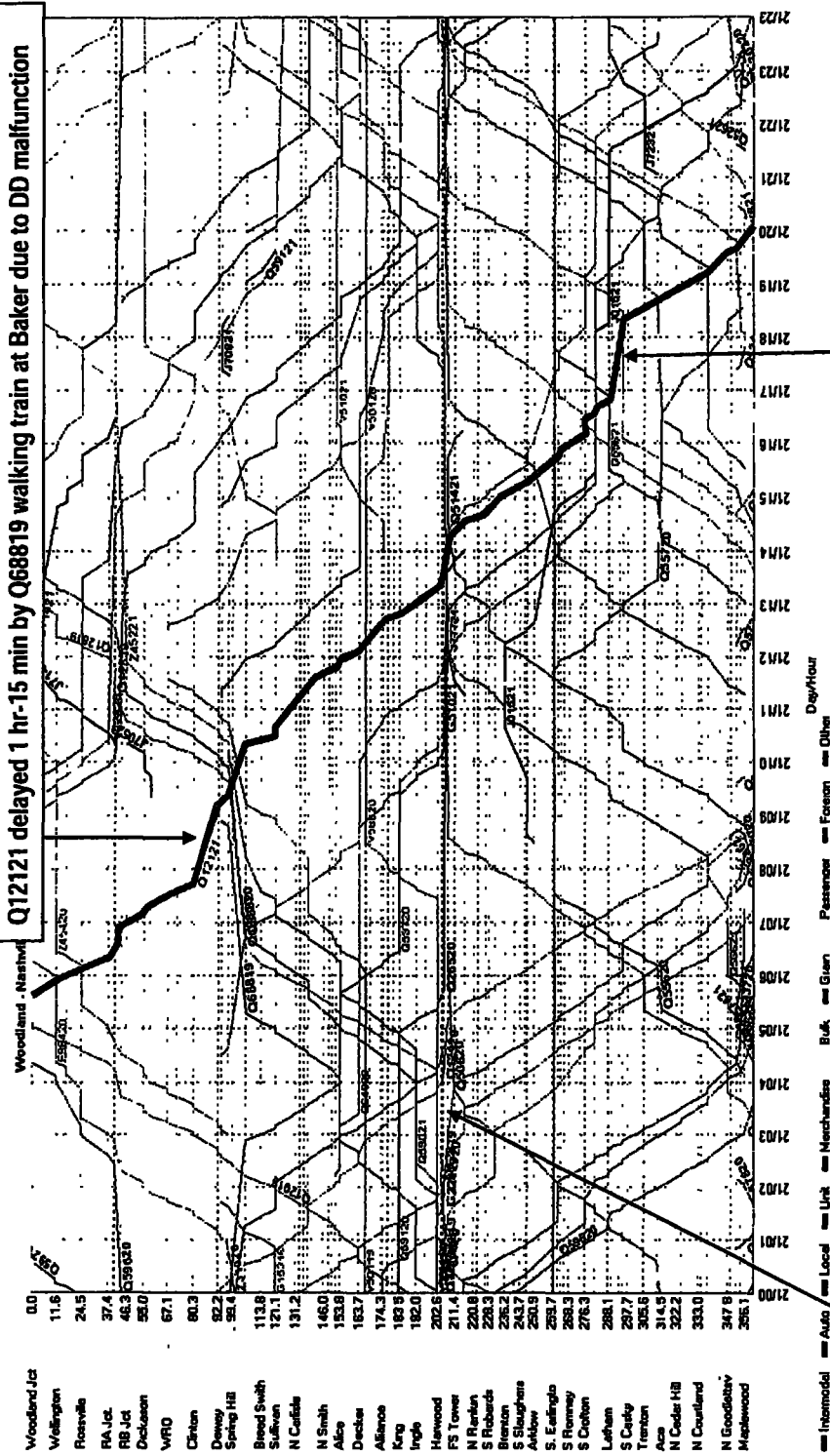
String Lines:

In the schedule world, trains are consistent each day of the week



String Lines:

Actual scheduled operations are not consistent from day to day
(Note the multiple congestion points)



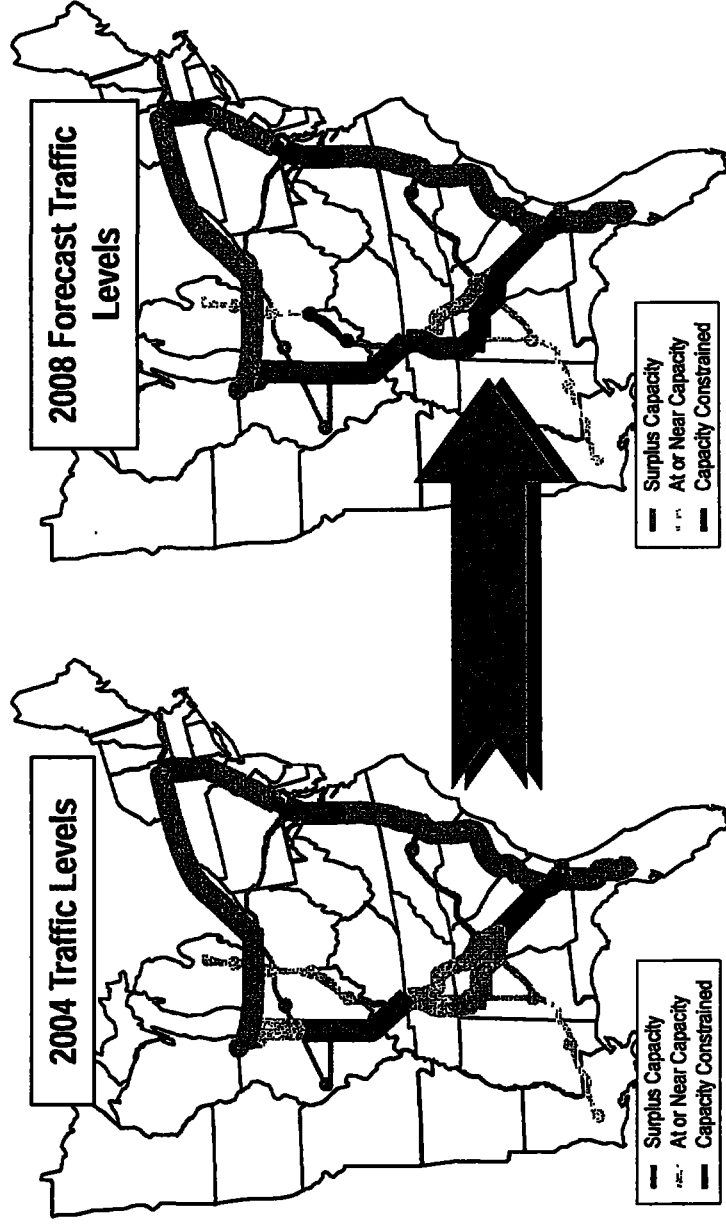
Evansville Terminal

Q12121 delayed 1 hr-15 min by Q59729 ahead at Casky with engine failure

Problem #1

Need capacity for projected growth on I-65 Corridor

Forecast infrastructure constraints from traffic growth

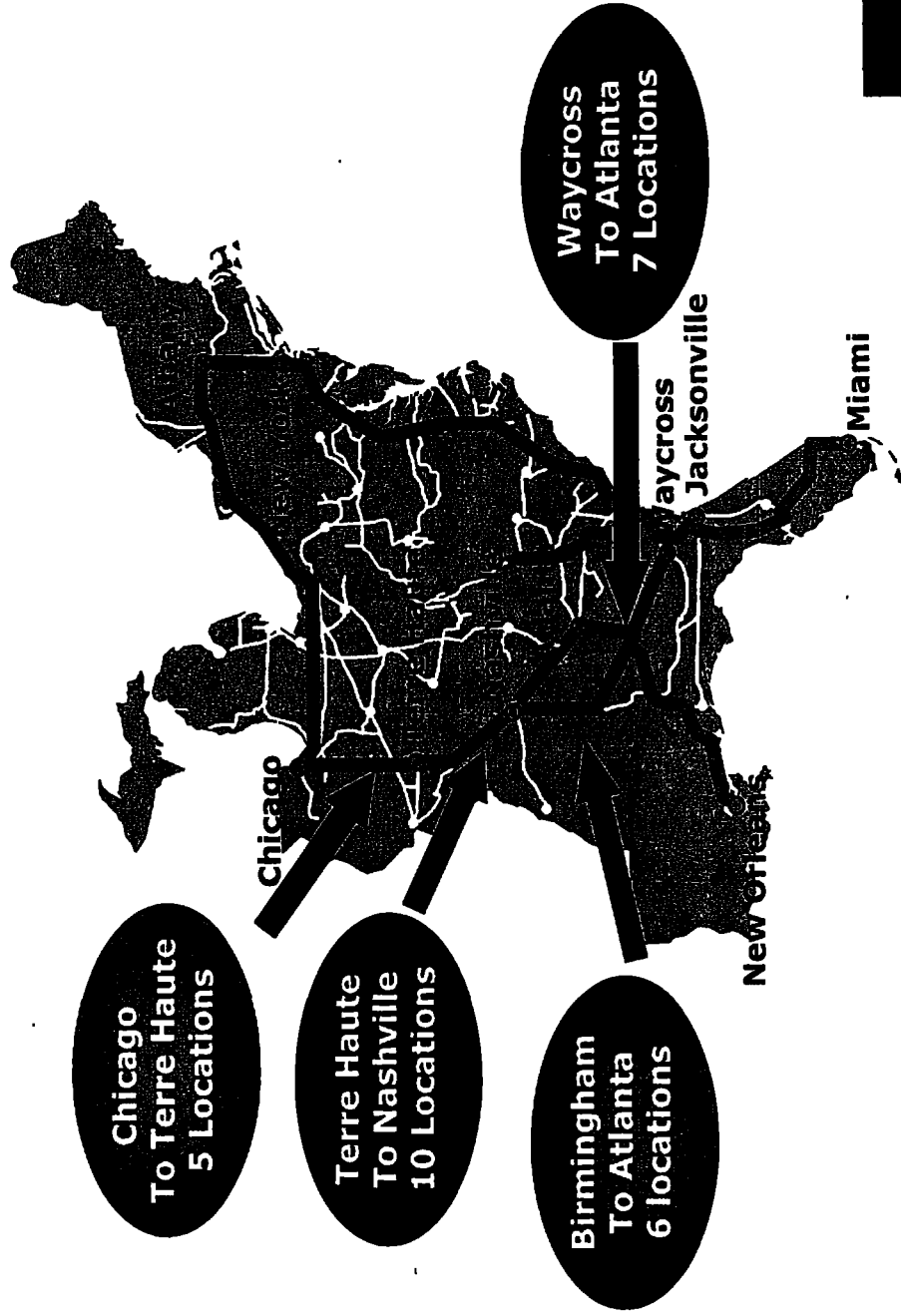


Multi-discipline team, including Network Planning, developed a system-wide solution

- **Methodology**
 - Performed bottleneck analysis on existing capacity
 - Developed Base Case and potential project list (RTC modeling)
 - Developed and modeled future growth
 - Assessed impact of growth on velocity and train delay
 - Developed project list and determined synergies
 - Modeled viable projects for impact to determine estimated benefits
 - Explored constructability from hi-rail trips
 - Developed project cost estimates and estimated benefits
 - Performed cost and economic analysis for rate of return on investment
 - Secured funding
 - Implemented construction

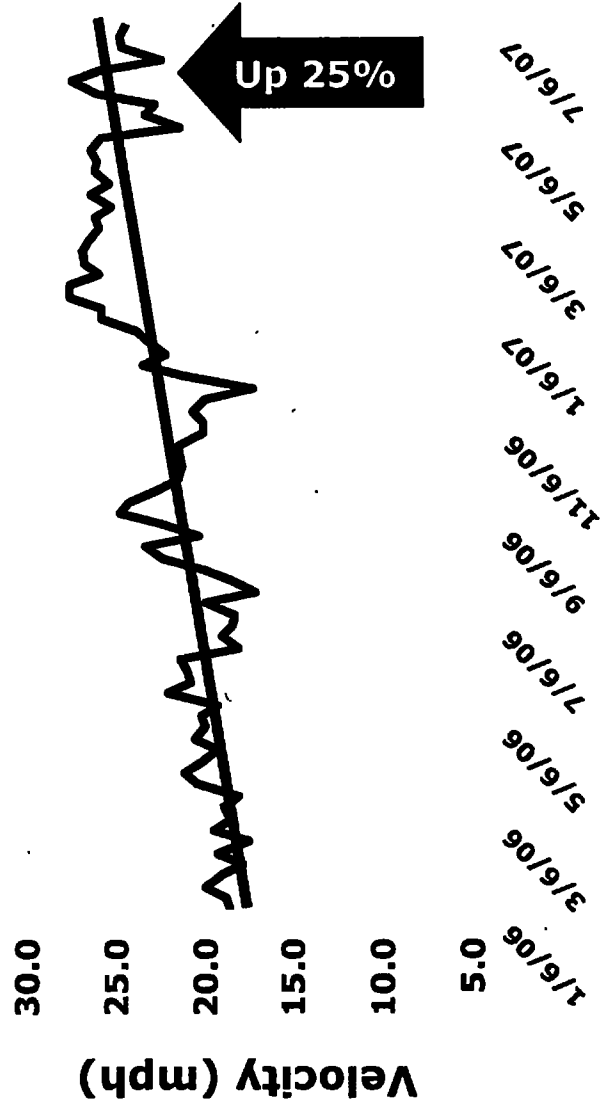


Result: \$250M+ Capacity expansion project



Those investments drove better performance

Fitzgerald Subdivision



Traffic growth required more efficient operation at Greenville, NC

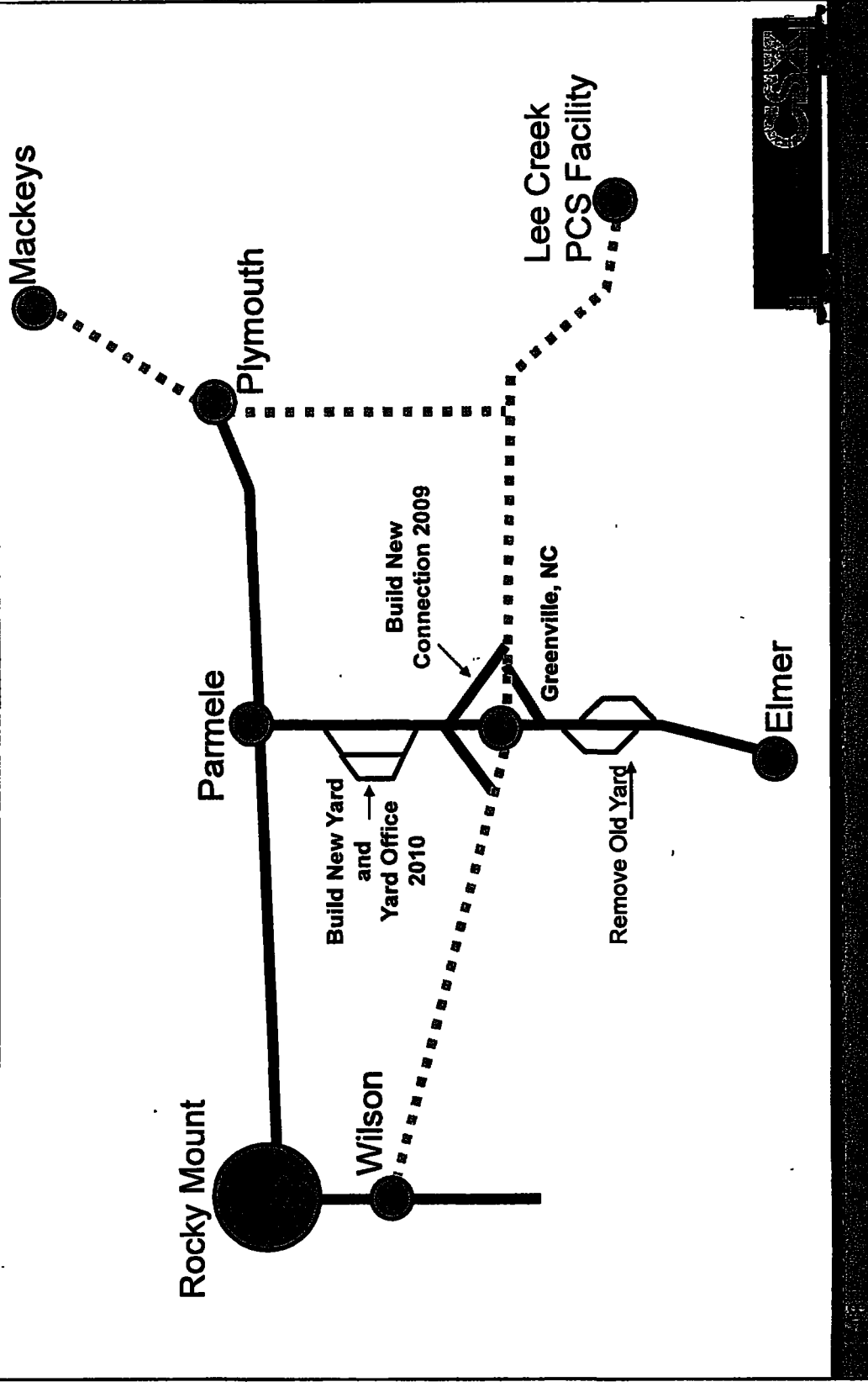


Multi-discipline team, led by Network Planning, devised an effective local solution

- Methodology
 - Opened discussions with city, state and other railroads involved
 - Risk analysis
 - Alternatives analysis
 - Competitive analysis
 - Public-Private Partnership
 - Site selection
 - Environmental assessment
 - Economic analysis
 - Permitting
 - Joint Facilities contract negotiation
 - Project management



Result: Direct connection and efficient operation



The future promises more challenging work

- Growth and changing markets for freight
- Public-Private Partnerships
- High-speed passenger rail
- Additional commuter operations
- PTC (unfunded government mandate)
- Track relocations to accommodate city growth



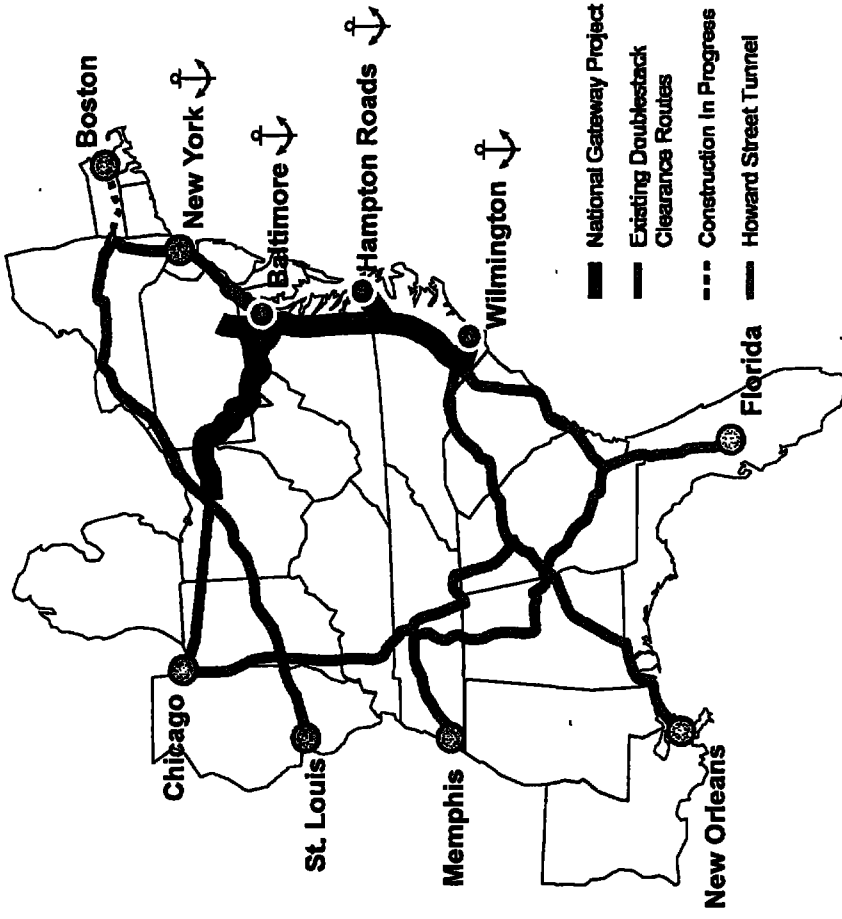
CSX
TRANSPORTATION

The Case for Public-Private Partnerships helps solve major national problems

- Freight-rail is essential to U.S. competitiveness in a global economy
- Freight rail is the most efficient and environmentally-friendly way to move goods.
 - CSX can move a ton of freight 466 miles on a single gallon of diesel fuel
- Freight rail helps alleviate highway congestion
 - A single train can move the equivalent of 280 trucks



National Gateway: Overview



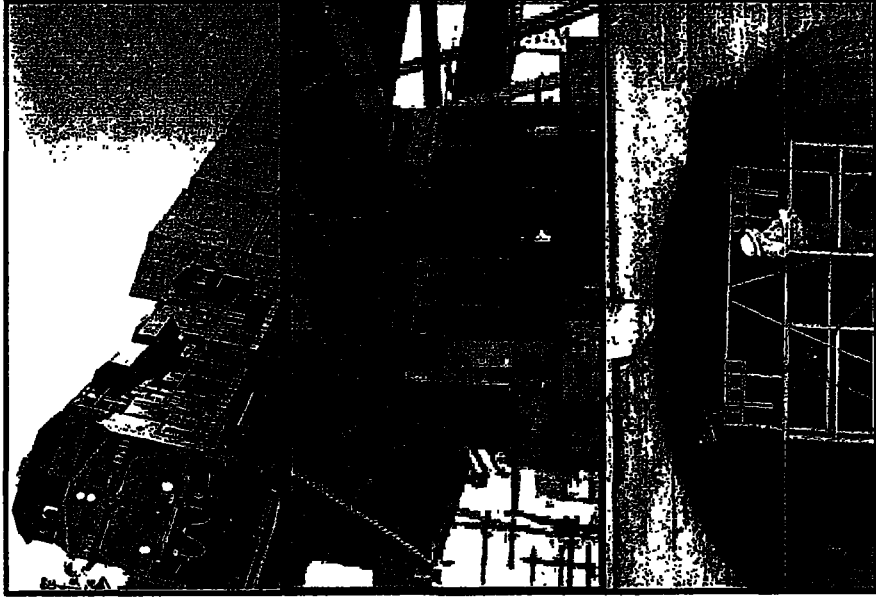
Project overview

- \$842 million in investments
- 61 double stack clearance projects
- Construction or expansion of 6 intermodal terminals



Clearance and infrastructure work needed

- Goal: Establish double-stacked capabilities
- Construction work varies from minor modifications to complete reconstruction of bridges, tunnels and other infrastructure
- 61 clearance projects in 6 states and the District of Columbia to achieve 20'-2" clearance
- Improvements underway at Charlotte terminal to increase capacity, efficiency





National Gateway provides solutions to our nation's challenges, over \$10 billion in public benefits

- Stimulates the economy
 - Over 30 years, expected to create more than 50,000 jobs, including more than 25,000 jobs in 14 economically distressed areas
- Improves U.S Competitiveness
 - Triples the market access potential for the Ports of Baltimore, Hampton Roads and Wilmington while improving western connections over Chicago.
- Provides a Sustainable Transportation Solution
 - Reduces emissions – estimated 20 million tons of CO2 eliminated
 - Assists states in attainment of federal clean air standards
- Reduces Consumption of Oil
 - Contributes to U.S. energy security by saving 2 billion gallons of diesel fuel



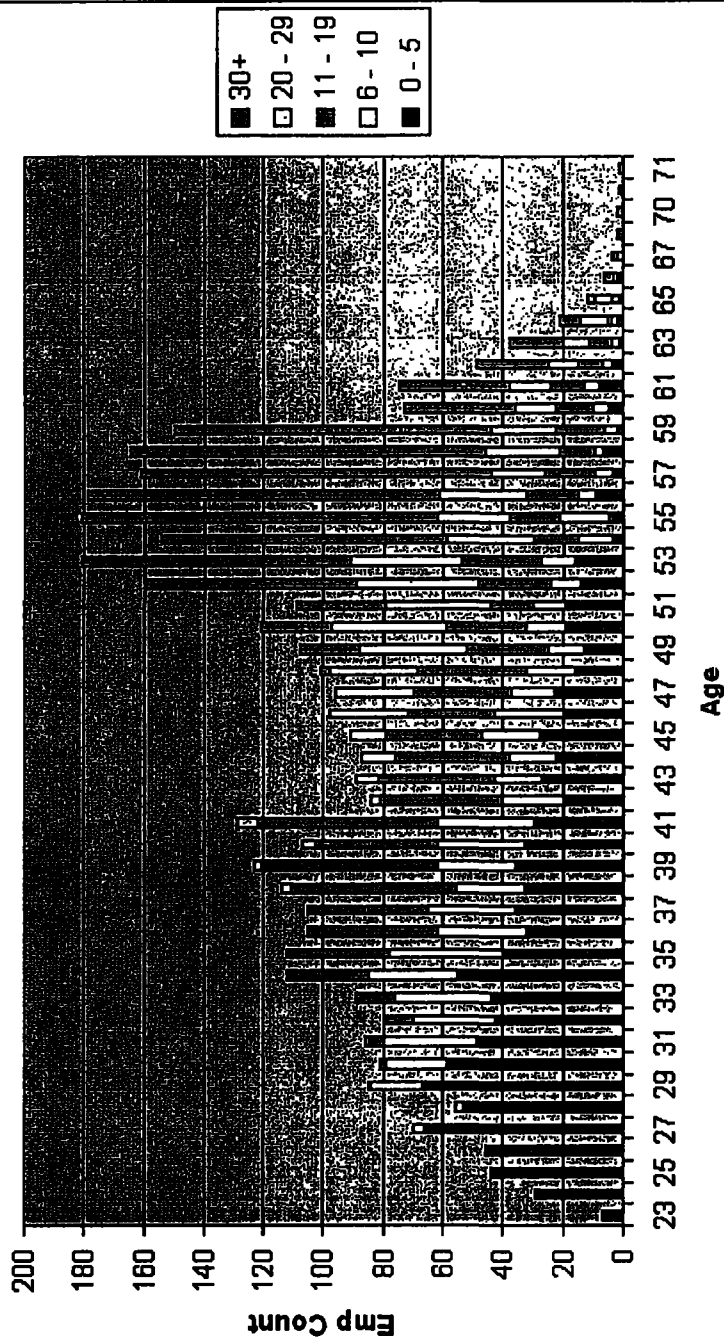
A successful team will be able to play offense and defense with diverse skills and experience

- **OFFENSE – Optimize freight network capacity**
 - Shifting traffic patterns and customer needs/demands
 - Volatility of the markets we serve and dynamic capital plan
 - Changing demands for freight network capacity
- **DEFENSE – Protect the franchise (our future)**
 - Influx of Federal Stimulus money
 - Proliferation of parties requesting use of our tracks and property
 - Amtrak
 - Commuters
 - State DOT's
 - Planning organizations (MPO's, TPO's, Development Commissions)
- Current staff backgrounds/disciplines
 - Civil Engineering
 - Mechanical Engineering
 - Business Administration
 - Signal Engineering
 - Computer Science



All of this leads to employment opportunities as CSXT's aging work force retires

All Management Age & YOS Profile



CSXT

Questions?



Exhibit 7

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

TOTAL PETROCHEMICALS USA, INC.

Complainant

v.

CSX TRANSPORTATION, INC.

Defendant

Docket No. NOR 42121

**DEFENDANT'S RESPONSES AND OBJECTIONS TO COMPLAINANT'S FOURTH
AND FIFTH SETS OF DISCOVERY REQUESTS**

Pursuant to 49 C.F.R. Part 1114 and other applicable rules and authority, CSX Transportation, Inc. ("CSXT"), through undersigned counsel, submits the following Responses and Objections to Complainant Total Petrochemicals USA, Inc.'s ("TPI") Fourth and Fifth Sets of Discovery Requests.

CSXT incorporates and adopts the General Objections set forth in CSXT's Responses and Objections to Complainant's First Requests for Admission, Interrogatories, and Requests for Production of Documents (served June 23, 2010) and in CSXT's Responses and Objections to Complainant's Third Set of Discovery Requests (served August 16, 2010). CSXT's incorporation and adoption of those General Objections includes, but is not limited to, CSXT's objections to the Definitions and Instructions that were set forth in TPI's First Discovery Requests and that TPI incorporates in its Fourth and Fifth Discovery Requests. CSXT's objections shall not waive or prejudice any objections that it may later assert.

SPECIFIC OBJECTIONS AND RESPONSE

In addition to its General Objections, below CSXT sets forth Specific Objections and Responses to the Fourth and Fifth Discovery Requests. CSXT preserves all of its General

Objections set forth above, and none of the following Specific Objections shall waive its General Objections. Nor shall any of CSXT's specific objections limit the scope, breadth, generality, or applicability of those General Objections.

REQUEST FOR PRODUCTION NO. 162

Please provide copies of CSX's 2008 and 2009 state income tax returns for the SARR States, including all state tax credit worksheets.

Response:

CSXT objects to this Request as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. CSXT's state income tax returns contain sensitive commercial information and are not relevant to a Stand Alone Cost analysis.

REQUEST FOR PRODUCTION NO. 163

Please produce any Rail Traffic Controller ("RTC") files including, but not limited to, track input files, train input files, Form A and Form B files, and required system files created since January 1, 2000 that develop the track layout of the entire or a majority of CSXT's rail system. Specific RTC files to produce include:


- a. DIVISION
- b. ENVIRONMENT
- c. EQUATION
- d. EZ ONE
- e. LABEL
- f. LINE
- g. LINK
- h. NODE
- i. PERMIT
- j. SIGNAL
- k. TOC
- l. WORKSTATION
- m. TRAIN
- n. FORM_A
- o. FORM_B
- p. INPUT
- q. OPTION

To the extent that you withhold any responsive files, documents, or information, please identify the withheld files, documents, and/or information, and describe the privilege or other reason for withholding.

Response:

CSXT objects to this Request as unreasonably duplicative of TPI's previous discovery requests. CSXT further objects to TPI's request for RTC studies more than a decade old as unreasonably burdensome and not reasonably calculated to lead to the discovery of admissible evidence. CSXT has already produced RTC studies going back three years in response to TPI's original discovery requests, and there is no justification for TPI's demand for production of outdated studies. Subject to and without waiving this objection or the General Objections, CSXT incorporates its responses and objections to TPI Request for Production 41 and refers TPI to the RTC data produced in response to that request on the external hard drive labeled CSX-TPI-EHD-001 (produced August 5, 2010). TPI's suggestion that CSXT possesses additional RTC files "that develop the track layout of the entire or a majority of CSXT's rail system" is incorrect. CSXT's RTC studies are directed toward specific segments of CSXT's rail system. When CSXT undertakes an RTC study, the only input files that are created are those necessary for study of that specific segment.

Respectfully submitted,



G. Paul Moates
Terence M. Hynes
Paul A. Hemmersbaugh
Matthew J. Warren
Noah A. Clements
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1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000
(202) 736-8711 (fax)

Peter J. Shudtz
Paul R. Hitchcock
John P. Patelli
Kathryn R. Barney
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

Counsel to CSX Transportation, Inc.

Dated: October 11, 2010

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of October, 2010, I caused a copy of the foregoing Responses and Objections to Complainant Total Petrochemicals USA, Inc.'s Fourth and Fifth Sets of Discovery Requests to be served on the following parties by first class mail, postage prepaid, and electronic mail:

Jeffrey O. Moreno
David E. Benz
Thompson Hine LLP
1920 N Street, NW, Suite 800
Washington, DC 20036


Eva Mozena Brandon

Exhibit 8



SIDLEY AUSTIN LLP
1501 K STREET, N.W.
WASHINGTON, D.C. 20005
(202) 736 8000
(202) 736 8711 FAX

phemmersbaugh@sidley.com
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SHANGHAI
SINGAPORE
SYDNEY
TOKYO
WASHINGTON, D.C.

FOUNDED 1866

November 4, 2010

By Email and First Class Mail

Jeffrey O. Moreno
Thompson Hine LLP
1920 N Street, N.W.
Suite 800
Washington, DC, 20036-1600

Re: Total Petrochemicals USA, Inc. v. CSX Transportation, Inc., STB Docket No. 42121

Dear Jeff:

I write in response to Total Petrochemicals USA, Inc.'s ("TPI") October 27, 2010 letter purporting to catalog the status of CSX Transportation, Inc.'s ("CSXT") discovery responses in the above-referenced case. This letter is the latest iteration of what has become an unfortunate pattern of exaggerations and misstatements in an apparent effort to claim that CSXT's discovery responses are deficient in some way. The reality is that CSXT has been very responsive to TPI's unprecedentedly broad and extensive discovery requests. Once the omissions, exaggerations, and misstatements in TPI's October 27 letter are corrected, it is clear that CSXT has thoroughly responded to nearly every request TPI made before the scheduled close of discovery.

The scope and breadth of TPI's discovery requests in this proceeding go far beyond those in any SAC case in which CSXT has been involved. TPI has posed well over seven hundred discovery requests and subparts in seven separate sets of requests – the last served on a federal holiday falling four days before the scheduled close of discovery. Many of these requests are remarkably broad, and TPI's numerous demands that information produced by CSXT be formatted to meet TPI's precise specifications has significantly complicated and increased the cost of the discovery process. CSXT has devoted considerable time, energy, and resources to an extensive effort to accommodate TPI's exacting demands and queries. CSXT has done so despite its considerable doubts as to whether TPI actually plans to use much of the material it is demanding in the preparation of SAC evidence in this case.

Previously, on October 8, 2010 TPI sent CSXT a letter purporting to list scores of discovery requests for which CSXT had produced no responsive documents. CSXT's response demonstrated that TPI's October 8 letter was riddled with substantial exaggerations and

Jeffrey O. Moreno
November 4, 2010
Page 2

misstatements. See P. Hemmersbaugh Letter to J. Moreno (Oct. 14, 2010). Indeed, CSXT showed that it had already produced the allegedly missing responsive information data for no fewer than forty-five of the discovery responses that TPI claimed were incomplete. TPI's October 27 letter does not dispute these corrections.

Unfortunately, TPI's October 27 letter again is replete with the same sort of errors, exaggerations, and misstatements that characterized its October 8 letter. Once again, TPI demands production of materials that CSXT has already produced, and repeats questions that CSXT has already answered.

First, your letter claims that "TPI has not yet received responses" to certain enumerated discovery requests. This assertion is inaccurate. CSXT has produced responsive information for nearly every one of the listed requests, as the following bullet points reiterate.

- **Interrogatories 13 and 24.** CSXT produced responsive information on terminal profiles on July 27, 2010 on CSXT-TPI-DVD-C-010, and that information sufficient to answer most subparts of these interrogatories is publicly available on www.csxi.com. CSXT is also producing additional information in a supplemental response today.
- **RFP 21.** As of October 15, 2010 (when CSX completed production of 2008 traffic revenue data), the only outstanding item for this request was *event* data for 2008 traffic. As we discussed earlier this week, CSXT has encountered significant difficulty in extracting and producing meaningful event data for 2008, including difficulty matching enhanced event data with 2008 traffic records. Because of these difficulties, and because TPI has limited need for 2008 data in light of the 2009 and 2010 data (and the 2008 traffic revenue data) CSXT has produced, TPI and CSXT have agreed that CSXT need not produce 2008 event data.
- **RFP 60.** Responsive data is being produced today on CSXT-TPI-HC-DVD-073.
- **RFP 68.** Responsive data was produced October 15, 2010 on CSXT-TPI-C-DVD-063.
- **RFP 75.** Responsive data is being produced today on CSXT-TPI-HC-DVD-75.
- **RFPs 77 and 81.** All leases that CSXT has electronically available were produced on CSXT-TPI-HC-DVD-071. A minority of the leases are only available in hard copy files. CSXT is working to identify these hard copy leases and will produce them as soon as practicable.
- **RFP 85.** Responsive data was produced October 15, 2010 on CSXT-TPI-HC-DVD-064.

Jeffrey O. Moreno

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Page 3

- **RFP 140.** It is not clear what TPI contends has not been produced. In response to the related RFPs 118 and 140, CSXT provided a list from which TPI could select particular agreements for review.¹
- **RFP 143.** Responsive data was produced October 26, 2010 on CSXT-TPI-HC-DVD-070.
- **RFP 155.** TPI has not specified what it believes CSXT has failed to produce in response to this request, which seeks “computer-readable” versions of data responsive to dozens of discovery requests. As CSXT has repeatedly explained during the parties’ discussions about what TPI vaguely refers to as “computer-readable data,” CSXT has and will continue to produce responsive data in electronic format where data exists in that format.
- **RFP 159.** Responsive data was produced October 15, 2010 on CSXT-TPI-HC-DVD-064.

Second, TPI lists a number of CSXT’s discovery responses which it now claims “do not appear to be complete.” In reality, many of these purportedly incomplete responses are fully consistent with the objections that CSXT clearly asserted several months ago.²

- **RFP 16.** TPI’s claim that the documents CSXT has produced are not responsive to this RFP is incorrect. *See* CSX-TPI-C-2942 to 2999, which was produced on July 7, 2010. CSXT also refers TPI to the considerable number of sidetrack agreements that CSXT has produced.
- **RFP 41.** CSXT has already produced the responsive data in its possession. Data on yard elevations does not exist.
- **RFP 43.** TPI claims that the RTC data that CSXT produced on August 5 is incomplete because CSXT did not include output files for RTC runs. TPI does not dispute that CSXT provided all the files necessary for TPI to replicate CSXT’s RTC runs and for TPI to produce whatever output files it wants. The only justification TPI offers for this demand is that it wants to “verify” that “the models provided by CSXT are the same as used by CSXT in the normal course of business.” This rationale is neither reasonable nor a sufficient basis for TPI to demand production of data that is

¹ That list was originally included on CSXT-TPI-HC-DVD-017, produced July 30, 2010. A corrected list was later produced on CSXT-TPI-HC-DVD-061.

² In the interest of responding promptly to the vast majority of the issues raised in TPI’s October 27 letter expeditiously, CSXT has not responded to every follow-up request raised in that letter. CSXT will respond to the remaining follow-up requests soon.

Jeffrey O. Moreno
November 4, 2010
Page 4

clearly within its power to generate. TPI has not demonstrated any need for such “verification,” and the notion that the RTC models CSXT produced might not have been created in the normal course of CSXT’s business is nonsense.

- **RFPs 70 and 158.** CSXT maintains its previously-asserted objections to these requests. TPI’s claims that “CSXT’s compliance with federal and state regulations . . . is relevant to how the SARR will be required to handle and route that same traffic” is plainly incorrect. The basic legal requirements governing the SARR’s handling of any hazardous materials traffic TPI chooses to select in its traffic group are not subject to dispute in this case: TPI’s SARR will be required to comply with all applicable laws and regulations. TPI’s requests seeking studies of CSXT’s compliance with those regulations are plainly outside the scope of appropriate SAC discovery. Moreover, the actual routes traveled by CSXT’s traffic are apparent from the traffic and event data CSXT has produced.
- **RFP 118.** All information that CSXT has available electronically was produced October 28, 2010 on CSXT-TPI-HC-DVD-071. Some information is not available electronically. CSXT is working to identify any hard copy files in its possession, and will produce any additional responsive information it identifies.
- **RFP 142.** As for TPI’s request for further detail of the cost information CSXT has produced, CSXT does not possess more detailed breakdowns of this information. TPI’s claim, that CSXT has not provided standards and specifications for communications equipment, is incorrect. CSXT refers TPI to its previous productions at CSX-TPI-C-006940 to 6950; CSX-TPI-C-009330 to 9334; CSX-TPI-C-028908 to 8915; and CSX-TPI-C-040644 to 0646. CSXT also refers TPI to the publicly available standards for railway electronics that CSXT is producing today.
- **RFPs 148 & 149.** CSXT explained in its June 23, 2010 written responses that TPI’s request for production of an unredacted version of CSXT’s PTC implementation plan called for security sensitive information (“SSI”). Accordingly, CSXT produced a redacted version of that plan, as well as other non-SSI data on CSXT’s PTC spending. TPI now suggests that location-specific data on PTC spending should be unredacted, on the theory that such data is not SSI. TPI is wrong. Granular location-specific spending information is SSI because disclosure of such spending would necessarily reveal which segments on CSXT’s system will first be upgraded for PTC. The order in which CSXT is implementing PTC on its system is based on a highly sensitive assessment of location-specific risk factors, and this information is certainly SSI. Moreover, CSXT has also produced a document setting forth, on a state-by-state basis, its estimated capital expenditures for PTC.

Jeffrey O. Moreno
November 4, 2010
Page 5

- **RFP 151.** TPI's claim that CSXT never responded to its July 16, 2010 request for bonus depreciation information from CSXT's tax returns is not true. CSXT's and TPI's counsel and consultants specifically discussed this request at the August 10, 2010 meet and confer, and CSXT made clear its position that the requested information was irrelevant since the bonus depreciation provisions at issue expired before TPI's SARR would commence operations. In light of very recent legislation that has amended bonus depreciation rules, however, CSXT intends to produce bonus depreciation schedules for 2008 and 2009 soon.³
- **RFP 162.** As CSXT stated in its objection to this Request, TPI's demand for production of dozens of state income tax returns is not reasonably calculated to lead to the discovery of evidence relevant to the preparation of a stand alone cost case. TPI's claim that it is entitled to fish through CSXT's state income tax returns for 2008 and 2009 for tax credits that could be claimed by the SARR makes little sense, since the SARR will begin operations in 2010 and would not file income tax returns for 2008 or 2009.
- **RFP 163.** As CSXT has already explained, TPI's insistence that CSXT has RTC files replicating the entire CSXT network is wrong. CSX does not have its entire system coded into RTC as one network. TPI's claim that the document it attaches to its letter "refers to a base case system-wide solution for capacity planning that CSXT has developed using the RTC model" misreads that document. The RTC modeling study referred to in the document cited by TPI was not a system-wide study. Rather, it was a 2004 RTC study of CSXT's I-65 corridor from Chicago to Jacksonville. See Attachment to Oct. 27 Moreno Letter at 12, 14. The "system-wide solution" comment TPI cites does not refer to a system-wide RTC run, but rather to the fact that the CSXT team developing solutions to the capacity constraint problems on the I-65 corridor considered the entire network from a scheduling and routing perspective. The only RTC modeling undertaken during that process was the 2004 model of the Chicago-Jacksonville line referred to above.

Third, TPI's October 27 letter listed eight follow-up letters to which it claimed CSXT had not responded. In fact, CSXT responded on October 22 to the first letter on TPI's list. See N. Clements Letter to J. Moreno (Oct. 22, 2010). All but one of the remaining seven letters on the list were sent after the scheduled close of discovery.⁴ Indeed, two of the letters on TPI's list were sent on the very same day as TPI's October 27 letter demanding a timetable for CSXT's

³ In doing so, CSXT does not concede that TPI's SARR would be entitled to take advantage of any bonus depreciation.

⁴ One letter was sent on October 15, the day discovery closed.

Jeffrey O. Moreno
November 4, 2010
Page 6

response to those “outstanding” follow-up requests. CSXT is responding to these letters (and the letters TPI has sent since October 27) as expeditiously as possible – including responses to two of those letters sent today.

* * *

In conclusion, the record demonstrates that CSXT has made an enormous and unprecedented discovery effort, and that the vast majority of claims in TPI’s October 27 letter are erroneous or unfounded. If you have questions about this letter, please let me know.

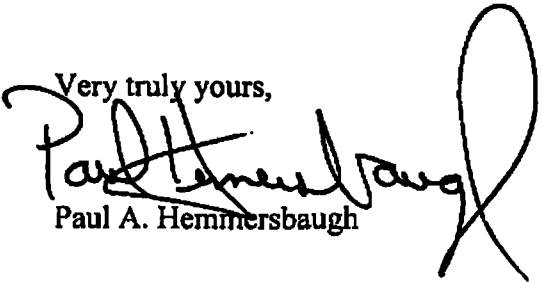
Very truly yours,

Paul A. Hemmingsbaugh

Exhibit 9

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

TOTAL PETROCHEMICALS USA, INC.

Complainant,

v.

CSX TRANSPORTATION, INC.

Defendant.

Docket No. NOR 42121

**COMPLAINANT'S THIRD SET OF DISCOVERY REQUESTS
TO DEFENDANT**

Complainant Total Petrochemicals ("TPI"), pursuant to 49 C.F.R. Part 1114.30, hereby submits its Third Set of Discovery Requests to Defendant, CSX Transportation, Inc. ("CSXT"). The Interrogatories and Requests for Production in this Third Set of Discovery Requests are numbered consecutively after the corresponding Interrogatories and Requests for Production in TPI's First Requests for Admissions, Interrogatories, and Requests for Production of Documents, which were served on CSXT on May 17, 2010, and TPI's Second Set of Discovery Requests, which were served on CSXT on May 28, 2010.

Responses to TPI's Third Set of Discovery Requests should be delivered to the offices of Thompson Hine LLP, 1920 N Street, N.W., Washington, D.C. 20036, within thirty (30) days from the date hereof, unless otherwise agreed by the parties. TPI is prepared to cooperate with CSXT to facilitate the expeditious production of documents with minimum practical burden.

I. DEFINITIONS

TPI incorporates and references the Definitions in TPI's First Set of Requests for Admissions, Interrogatories, and Request for Production of Documents (dated May 17, 2010).

II. INSTRUCTIONS

TPI hereby incorporates and references the Instructions in TPI's First Set of Requests for Admissions, Interrogatories, and Request for Production of Documents (dated May 17, 2010).

III. INTERROGATORIES

INTERROGATORY NO. 24

Please describe the services, if any, that CSXI provides at each intermodal terminal or yard identified in CSXT's response to Interrogatory #13.

INTERROGATORY NO. 25

Please state whether or not CSXT has information and/or data in a computer-readable format for the following items (each subpart cross-references the information sought in a Request for Production ("RFP") in TPI's First Set of Discovery Requests, served on May 17, 2010):

- a. Operating Timetables (or the data identified in the timetables) [RFP #13]
- b. Station Lists [RFP #13]
- c. Station Books [RFP #13]
- d. Track Charts (or the data contained on the track charts) [RFP #13]
- e. Schematics of trackage at Origins [RFP #13]
- f. Schematics of trackage at Destinations [RFP #13]
- g. Mileage between railroad stations [RFP #13 and #27]
- h. Number of feet between mileposts [RFP #13]
- i. Operating Statistics and Density Data (including but not limited to train miles, train hours, locomotive unit miles, loaded car-miles, empty car-miles, net ton-miles, gross ton-miles (both including and excluding locomotives), number of trains, etc.) [RFP #18]
- j. Density [RFP #19]
- k. Rail line elevation [RFP #39]
- l. Curves [RFP #39]
- m. Communications signals [RFP #40]
- n. Yards [RFP #41]
- o. Track Input files for the RTC Model [RFP #43]
- p. Train Input files for the RTC Model [RFP #43]
- q. Form A and Form B files for the RTC Model [RFP #43]
- r. Output files for the RTC Model [RFP #43]
- s. Cycle times and movement data [RFP #44]

- t. Cycle times (including actual, projected, standard, expected and/or contractual) [RFP #45]
- u. Locomotives [RFP #52]
- v. Locomotive fuel consumption [RFP #56]
- w. Locomotive utilization and performance (including unit-miles, hours running, hours switching, hours out-of-service for repairs and hours stored useable) [RFP #59]
- x. Crew districts (including "from" and "to" stations, route miles and number of locomotives per train by train type) [RFP #65]
- y. Train dispatch priority and methodology for scheduling trains [RFP #72]
- z. End-of-train telemetry devices [RFP #76]
- aa. CSXT freight cars [RFP #77]
- bb. CSXT trailers and/or containers [RFP #78]
- cc. CSXI trailers and/or containers [RFP #79]
- dd. CSXT auto rack cars [RFP #81]
- ee. Rail car repair and maintenance [RFP #85]
- ff. Rail car miles [RFP #85]
- gg. Shipper-owned and shipper-leased rail cars [RFP #86]
- hh. Intermodal and automotive railcars provided by a third party [RFP #86]
- ii. Locomotive repair and maintenance [RFP #88]
- jj. Locomotive unit-miles [RFP #88]
- kk. Number of shifts worked per year, years of employment and annual compensation for individual locomotive engineers, conductors, dispatchers and equipment inspectors [RFP #94]
- ll. Culverts [RFP #127]
- mm. Tunnels [RFP #131]
- nn. Bridges [RFP #133]
- oo. Highway Crossings [RFP #138]
- pp. Fences [RFP #146]
- qq. Geographic/Geospatial Information System ("GIS") [RFP #153 and Interrogatory #22]
- rr. CSX Track Chart and Engineering Information System [RFP #154 and Interrogatory #22]

IV. REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 155

For each subpart of Interrogatory #25, if CSXT answered in the affirmative, then produce the information and/or data in a computer-readable format to the extent not already produced in reply to any other Interrogatory or Request for Production.

REQUEST FOR PRODUCTION NO. 156

Please produce all transportation contracts, including all amendments and supplements thereto (or letters of understanding with appendices or attachments), and all tariffs, common carrier pricing authorities, or other documents containing common carrier rate and service terms (collectively “pricing authorities”), entered into, agreed to, or established or provided by CSXI which govern shipments handled by CSXT as originating, terminating, overhead, or single-line carrier to, from, or through any of the SARR States in any of the years 2008 and beyond. For each pricing authority, please provide the traffic volumes and revenues associated with the movement of traffic under each pricing authority by traffic group (e.g., coal, agricultural, intermodal, etc.) and year for 2008 through the present.

REQUEST FOR PRODUCTION NO. 157

Please produce all forecasts and all documents related to forecasts or projections prepared by or for CSXI from 2008 through the present, or in CSXI’s possession, of future traffic volumes and/or revenues for freight traffic by traffic group (including any breakdowns of any such forecasts or projections whether by commodity classification, geographic region, line segment, or any other category) moving over any portion of the CSXT system located in any of the SARR States. Documents responsive to this request include, but are not limited to, traffic projections prepared in connection with engineering studies, authorization for expenditures, marketing studies, operating expense budgets, capital budgets, or mergers with or acquisitions of other carriers.

REQUEST FOR PRODUCTION NO. 158

Please produce copies of any documents, reports, analyses, or studies provided to any Federal or state agencies which discuss or describe CSXI's and/or TRANSFLO's compliance with regulations for handling, routing, or proposed routing of hazardous materials.

REQUEST FOR PRODUCTION NO. 159

Please produce all CSXI railcar maintenance agreements with outside contractors, including all supplements, attachments, exhibits, and schedules, for each year or partial year 2006 to the present, for all CSXI cars moving on CSXT's system. Also provide the documents identifying (a) the dollar amount paid for each service performed under the agreement by individual car or by car type; and (b) the number of car-miles corresponding to the amounts referenced in Request for Production No. 159, subpart a.

REQUEST FOR PRODUCTION NO. 160

Please provide information related to any liability expense incurred as a result of CSXI's and/or TRANSFLO's handling hazardous materials for each year 2007 to the present. For each liability expense incurred, please provide the following:

- a. The total amount of the liability expense;
- b. The STCC of hazardous material involved with the incurrence of the expense;
- c. The number of rail cars, containers, or trailers involved with the incurrence of the expense; and
- d. Any reimbursement of all or a portion of the liability expense, or other reimbursement which offset all or a portion of the liability expense

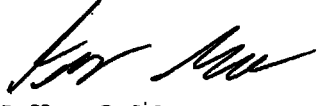
received by CSXI and/or TRANSFLO from any third party.

REQUEST FOR PRODUCTION NO. 161

Please provide information related to any additional operating or administrative expenses incurred by CSXI and/or TRANSFLO for each year from 2008 to the present as a result of handling hazardous materials, including, but not limited to, items such as switching expenses, insurance expenses, station clerical, car, container or trailer cleaning expenses, accident clean-up expenses, and/or billing expenses. For each expense identified, please provide:

- a. The total amount of the annual expense for each year;
- b. The class or classes of hazardous material to which the expense applies;
and
- c. The number of annual carloads handled each year to which the expense applies.

TOTAL PETROCHEMICALS USA, INC.


By: Jeffrey O. Moreno
David E. Benz
Thompson Hine LLP
1920 N St. N.W., Suite 800
Washington, D.C. 20036
(202) 331-8800

July 16, 2010

Certificate of Service

I hereby certify that on this 16th day of July 2010, a copy of the foregoing Third Set of Discovery Requests was served by electronic delivery on:

G. Paul Moates
Paul A Hemmersbaugh
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005



Jeffrey O. Moreno

Exhibit 10



SIDLEY AUSTIN LLP
1501 K STREET, N.W.
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SYDNEY
TOKYO
WASHINGTON, D.C.

pheimmersbaugh@sidley.com
(202) 738-8538

FOUNDED 1866

August 16, 2010

By Electronic Mail and U.S. Mail

Jeffrey O. Moreno
Thompson Hine LLP
1920 N Street, N.W., Suite 800
Washington, D.C. 20036

Re: Total Petrochemicals USA, Inc. v. CSX Transportation, Inc., STB Docket No. 42121

Dear Jeff:

Enclosed please find CSXT's Responses and Objections to TPI's Third Set of Discovery Requests, in connection with the above-referenced matter. If you have questions, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul A. Hemmersbaugh", with a large, stylized flourish extending from the end of the signature.

Paul A. Hemmersbaugh

Enclosure

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

TOTAL PETROCHEMICALS USA, INC.

Complainant

v.

CSX TRANSPORTATION, INC.

Defendant

Docket No. NOR 42121

**DEFENDANT'S RESPONSES AND OBJECTIONS TO COMPLAINANT'S THIRD SET
OF DISCOVERY REQUESTS**

Pursuant to 49 C.F.R. Part 1114 and other applicable rules and authority, CSX Transportation, Inc. ("CSXT"), through undersigned counsel, responds as follows to Complainant Total Petrochemicals USA, Inc.'s ("TPI") Third Set of Discovery Requests ("Third Discovery Requests").

GENERAL OBJECTIONS

CSXT incorporates and adopts the General Objections set forth in CSXT's Responses and Objections to Complainant's First Requests for Admission, Interrogatories, and Requests for Production of Documents (June 23, 2010). CSXT's incorporation and adoption of those General Objections includes, but is not limited to, CSXT's objections to the Definitions and Instructions that were set forth in TPI's First Discovery Requests and that TPI incorporates in its Third Discovery Requests. CSXT's objections shall not waive or prejudice any objections that it may later assert.

CSXT further objects to the Third Discovery Requests as unreasonably duplicative and repetitive. Rather than being requests for relevant and discoverable information not encompassed by TPI's previous discovery requests, the Third Discovery Requests are simply a

device for TPI to present additional, unnecessary inquiries about the scope and format of documents CSXT is producing in response to TPI's already excessive and oppressive prior discovery requests. All but two of TPI's purported new requests reiterate previous discovery requests word-for-word except for substituting "CSXI" (an entity that ceased to exist prior to the effective date of the challenged rates) and/or "TRANSFLO" for "CSXT." These redundant requests were completely unnecessary – CSXI and TRANSFLO were already included in TPI's definition of "CSXT," and CSXT has never objected to producing CSXI or TRANSFLO information (even though many of TPI's discovery requests for CSXI information are of questionable relevance, because CSXI no longer exists). Similarly, TPI's 44-subpart interrogatory requesting information on the "format" of documents CSXT is producing in response to TPI's prior discovery requests is highly irregular, and seeks to impose undue additional burdens on CSXT. TPI's use of formal discovery requests as a mechanism to pose production questions that could more efficiently be addressed by discussions between the parties is a misuse of the discovery process.

SPECIFIC OBJECTIONS AND RESPONSES

In addition to its General Objections, below CSXT sets forth Specific Objections and Responses to each of the Third Discovery Requests. CSXT preserves all of its General Objections set forth above, and none of the following Specific Objections shall waive its General Objections. Nor shall any of CSXT's specific objections limit the scope, breadth, generality, or applicability of those General Objections.

INTERROGATORY NO. 24

Please describe the services, if any, that CSXI provides at each intermodal terminal or yard identified in CSXT's response to Interrogatory #13.

Response:

CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects because CSXI no longer exists and thus no longer provides any services. Subject to and without waiving these objections and the General Objections, CSXT refers TPI to CSXT's Response to Interrogatory 13. Further subject to and without waiving its objections, CSXT states that it will provide information describing types of responsive activities and functions previously performed by the former CSXI that are presently performed by other entities, and sufficient to identify those entities.

INTERROGATORY NO. 25

Please state whether or not CSXT has information and/or data in a computer-readable format for the following items (each subpart cross-references the information sought in a Request for Production ("RFP") in TPI's First Set of Discovery Requests, served on May 17, 2010):

- a. Operating Timetables (or the data identified in the timetables) [RFP #13]
- b. Station Lists [RFP #13]
- c. Station Books [RFP #13]
- d. Track Charts (or the data contained on the track charts) [RFP #13]
- e. Schematics of trackage at Origins [RFP #13]
- f. Schematics of trackage at Destinations [RFP #13]
- g. Mileage between railroad stations [RFP #13 and #27]
- h. Number of feet between mileposts [RFP #13]
- i. Operating Statistics and Density Data (including but not limited to train miles, train hours, locomotive unit miles, loaded car-miles, empty car-miles, net ton-miles, gross ton-miles (both including and excluding locomotives), number of trains, etc.) [RFP #18]
- j. Density [RFP #19]
- k. Rail line elevation [RFP #39]
- l. Curves [RFP #39]
- m. Communications signals [RFP #40]
- n. Yards [RFP #41]
- o. Track Input files for the RTC Model [RFP #43]
- p. Train Input files for the RTC Model [RFP #43]

- q. Form A and Form B files for the RTC Model [RFP #43]
- r. Output files for the RTC Model [RFP #43]
- s. Cycle times and movement data [RFP #44]
- t. Cycle times (including actual, projected, standard, expected and/or contractual) [RFP #45]
- u. Locomotives [RFP #52]
- v. Locomotive fuel consumption [RFP #56]
- w. Locomotive utilization and performance (including unit-miles, hours running, hours switching, hours out-of-service for repairs and hours stored useable) [RFP #59]
- x. Crew districts (including “from” and “to” stations, route miles and number of locomotives per train by train type) [RFP #65]
- y. Train dispatch priority and methodology for scheduling trains [RFP #72]
- z. End-of-train telemetry devices [RFP #76]
- aa. CSXT freight cars [RFP #77]
- bb. CSXT trailers and/or containers [RFP #78]
- cc. CSXI trailers and/or containers [RFP #79]
- dd. CSXT auto rack cars [RFP #81]
- ee. Rail car repair and maintenance [RFP #85]
- ff. Rail car miles [RFP #85]
- gg. Shipper-owned and shipper-leased rail cars [RFP #86]
- hh. Intermodal and automotive railcars provided by a third party [RFP #86]
- ii. Locomotive repair and maintenance [RFP #88]
- jj. Locomotive unit-miles [RFP #88]
- kk. Number of shifts worked per year, years of employment and annual compensation for individual locomotive engineers, conductors, dispatchers and equipment inspectors [RFP #94]
- ll. Culverts [RFP #127]
- mm. Tunnels [RFP #131]
- nn. Bridges [RFP #133]
- oo. Highway Crossings [RFP #138]
- pp. Fences [RFP #146]
- qq. Geographic/Geospatial Information System (“GIS”) [RFP #153 and Interrogatory #22]
- rr. CSX Track Chart and Engineering Information System [RFP #154 and Interrogatory #22]

Response:

CSXT objects to this Interrogatory as unreasonably burdensome, duplicative, ambiguous, and unnecessary. The “format” of information CSXT is producing in response to TPI’s discovery requests is clear from the documents and data CSXT is producing or will produce, and CSXT has already produced responsive information for many of these requests. CSXT further

objects to the vague and inadequately defined term “computer-readable format,” which is susceptible of many different and divergent interpretations. CSXT will interpret this term to mean data that is maintained in forms or formats accessible by commercially available software or computer applications. CSXT further reasserts its objections to Instruction 3 of TPI’s Discovery Requests: This includes objections to Instruction 3 in its entirety and to each subpart of Instruction 3. CSXT also objects that the considerable continuing uncertainty, confusion, and ambiguity as to what TPI may deem a “computer readable format” in any particular instance makes it practically impossible for CSXT to provide a meaningful response to Interrogatory No. 25. Subject to and without waiving these objections and the general objections, CSXT refers TPI to the documents and data CSXT has produced and will produce, from which the answer to this Interrogatory can be ascertained. 49 C.F.R. § 1114.26(b). Further subject to its objections, CSXT also refers TPI to the descriptions of data in the parties’ recent discovery correspondence and communications, and to the further descriptions and information CSXT provided during the parties’ “meet-and-confer” discovery conference on August 10, 2010. To the extent applicable, CSXT adopts and incorporates to these Responses and Objections its responses and explanations provided to TPI from July 21 to the present. Also subject to and without waiving its objections, CSXT states that, through the parties’ discovery correspondence and discussions subsequent to service of these Third Discovery Requests (including the parties’ discovery conference held August 10, 2010), the parties have reached a preliminary working arrangement for addressing the forms and formats of electronic data and information CSXT intends to produce or make available for review in this case. If TPI has additional reasonable and relevant questions about particular items, CSXT (through its counsel) is available and willing to discuss and respond to such questions.

REQUEST FOR PRODUCTION NO. 155

For each subpart of Interrogatory #25, if CSXT answered in the affirmative, then produce the information and/or data in a computer-readable format to the extent not already produced in reply to any other Interrogatory or Request for Production.

Response:

CSXT reiterates the specific objections in its Response to Interrogatory No. 25.

Furthermore, for each subpart of Interrogatory No. 25, CSXT reiterates the objections and responses it made to the discovery requests referenced in that subpart. Subject to and without waiving these objections or the General Objections, CSXT states that it will interpret the vague and undefined term "computer-readable format" to mean data that is maintained in formats accessible by standard commercially available software. CSXT's production of information responsive to the discovery requests named in Interrogatory No. 25 will include information in computer-readable format to the extent that information maintained in that format can be identified in a reasonable search.

REQUEST FOR PRODUCTION NO. 156

Please produce all transportation contracts, including all amendments and supplements thereto (or letters of understanding with appendices or attachments), and all tariffs, common carrier pricing authorities, or other documents containing common carrier rate and service terms (collectively "pricing authorities"), entered into, agreed to, or established or provided by CSXI which govern shipments handled by CSXT as originating, terminating, overhead, or single-line carrier to, from, or through any of the SARR States in any of the years 2008 and beyond. For each pricing authority, please provide the traffic volumes and revenues associated with the movement of traffic under each pricing authority by traffic group (e.g., coal, agricultural, intermodal, etc.) and year for 2008 through the present.

Response:

CSXT objects to this Request as unduly burdensome and overbroad. TPI's request for production of "all" contracts creates a significant burden on CSXT both to identify those contracts with provisions requiring notification of the customer before the contract may be

disclosed in discovery and to provide appropriate notice to such customers. Moreover, CSXT objects to TPI's illogical request for "tariffs, common carrier pricing authorities, or other documents containing common carrier rate and service terms . . . entered into, agreed to, or established or provided by CSXI." CSXI was not a common carrier and did not enter into or establish any such common carrier rates or terms. CSXT further objects on the grounds that CSXI no longer exists and CSXI's rights and obligations under its former transportation contracts have been assumed by CSXT. Subject to and without waiving these objections or the General Objections, CSXT refers TPI to CSXT's Response to Request for Production No. 29.

REQUEST FOR PRODUCTION NO. 157

Please produce all forecasts and all documents related to forecasts or projections prepared by or for CSXI from 2008 through the present, or in CSXI's possession, of future traffic volumes and/or revenues for freight traffic by traffic group (including any breakdowns of any such forecasts or projections whether by commodity classification, geographic region, line segment, or any other category) moving over any portion of the CSXT system located in any of the SARR States. Documents responsive to this request include, but are not limited to, traffic projections prepared in connection with engineering studies, authorization for expenditures, marketing studies, operating expense budgets, capital budgets, or mergers with or acquisitions of other carriers.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the request for production of "all" documents as overbroad and unduly burdensome. CSXT also specifically objects to TPI's request for all forecasts created since 2008 because CSXT does not maintain historical forecasts in a readily accessible format. CSXT also objects to TPI's overbroad and unduly burdensome request for all documents "related to" forecasts. CSXT further objects to TPI's request for outdated 2008 forecast data as irrelevant and unduly burdensome. CSXT also objects on the grounds that CSXI no longer exists. Subject to and without waiving these

objections or the General Objections, CSXT refers TPI to CSXT's Response to Request for Production No. 30.

REQUEST FOR PRODUCTION NO. 158

Please produce copies of any documents, reports, analyses, or studies provided to any Federal or state agencies which discuss or describe CSXI's and/or TRANSFLO's compliance with regulations for handling, routing, or proposed routing of hazardous materials.

Response:

CSXT specifically objects to this Request for Production to the extent it calls for disclosure of Sensitive Security Information ("SSI"). CSXT further objects to this Request as seeking information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. TPI's vague request for any "documents, reports, analyses or studies" created at any time that discuss or describe CSXI's or TRANSFLO's compliance with federal regulations has no relevance to matters properly at issue in this case. Subject to and without waiving its objections, CSXT responds that CSXI no longer exists. Further subject to and without waiving its objections, CSXT also refers TPI to CSXT's Response to Request for Production No. 70.

REQUEST FOR PRODUCTION NO. 159

Please produce all CSXI railcar maintenance agreements with outside contractors, including all supplements, attachments, exhibits, and schedules, for each year or partial year 2006 to the present, for all CSXI cars moving on CSXT's system. Also provide the documents identifying (a) the dollar amount paid for each service performed under the agreement by individual car or by car type; and (b) the number of car-miles corresponding to the amounts referenced in Request for Production No. 159, subpart a.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also objects to this Request as

overbroad and unduly burdensome. CSXT further objects on the grounds that CSXI no longer exists. Subject to and without waiving these specific objections or the General Objections, CSXT refers TPI to CSXT's Response to Request for Production No. 87.

REQUEST FOR PRODUCTION NO. 160

Please provide information related to any liability expense incurred as a result of CSXI's and/or TRANSFLO's handling hazardous materials for each year 2007 to the present. For each liability expense incurred, please provide the following:

- a. The total amount of the liability expense;
- b. The STCC of hazardous material involved with the incurrence of the expense;
- c. The number of rail cars, containers, or trailers involved with the incurrence of the expense; and
- d. Any reimbursement of all or a portion of the liability expense, or other reimbursement which offset all or a portion of the liability expense received by CSXI and/or TRANSFLO from any third party.

Response:

CSXT objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable scope of time and instead seeks information since 2007. CSXT further objects to this Request on the grounds that CSXI no longer exists. Subject to and without waiving these specific objections or the General Objections, CSXT refers TPI to CSXT's Response to Request for Production No. 102.

REQUEST FOR PRODUCTION NO. 161

Please provide information related to any additional operating or administrative expenses incurred by CSXI and/or TRANSFLO for each year from 2008 to the present as a result of handling hazardous materials, including, but not limited to, items such as switching expenses, insurance expenses, station clerical, car, container or trailer cleaning expenses, accident clean-up expenses, and/or billing expenses. For each expense identified, please provide:

- a. The total amount of the annual expense for each year;

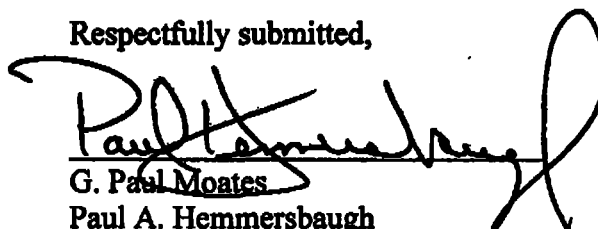
- b. The class or classes of hazardous material to which the expense applies; and
- c. The number of annual carloads handled each year to which the expense applies.

Response:

CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request on the grounds that CSXI no longer exists. Subject to and without waiving these specific objections or the General Objections, CSXT refers TPI to CSXT's Response to Request for Production No. 103.

Peter J. Shudtz
Paul R. Hitchcock
John P. Patelli
Kathryn R. Barney
CSX Transportation Inc.
500 Water Street
Jacksonville, FL 32202

Respectfully submitted,


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Counsel to CSX Transportation, Inc.

Dated: August 16, 2010

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of August, 2010, I caused a copy of the foregoing Responses and Objections of CSX Transportation, Inc. to Complainant's Third Set of Discovery Requests to be served on the following parties by first class mail, postage prepaid, and electronic mail:

Jeffrey O. Moreno
Jennifer M. Gartlan
Thompson Hine LLP
1920 N Street, NW, Suite 800
Washington, DC 20036


Eva Mozena Brandon

Exhibit 11

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

TOTAL PETROCHEMICALS USA, INC.

Complainant,

v.

CSX TRANSPORTATION, INC.

Defendant.

Docket No. NOR 42121

**COMPLAINANT'S FOURTH SET OF DISCOVERY REQUESTS
TO DEFENDANT**

Complainant TOTAL Petrochemicals USA, Inc. ("TPI"); pursuant to 49 C.F.R. Part 1114.30, hereby submits its Fourth Set of Discovery Requests to Defendant, CSX Transportation, Inc. ("CSXT"). The Interrogatories and Requests for Production in this Fourth Set of Discovery Requests are numbered consecutively after the corresponding Interrogatories and Requests for Production in TPI's First Requests for Admissions, Interrogatories, and Requests for Production of Documents (served on CSXT on May 17, 2010), TPI's Second Set of Discovery Requests (served on CSXT on May 28, 2010), and TPI's Third Set of Discovery Requests (served on CSXT on July 16, 2010).

Responses to TPI's Fourth Set of Discovery Requests should be delivered to the offices of Thompson Hine LLP, 1920 N Street, N.W., Washington, D.C. 20036, within thirty (30) days from the date hereof, unless otherwise agreed by the parties. TPI is prepared to cooperate with CSXT to facilitate the expeditious production of documents with minimum practical burden.

I. DEFINITIONS

TPI hereby incorporates and references the Definitions in TPI's First Set of Requests for Admissions, Interrogatories, and Request for Production of Documents (dated May 17, 2010).

II. INSTRUCTIONS

TPI hereby incorporates and references the Instructions in TPI's First Set of Requests for Admissions, Interrogatories, and Request for Production of Documents (dated May 17, 2010).

III. REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 162

Please provide copies of CSX's 2008 and 2009 state income tax returns for the SARR States, including all state tax credit worksheets.

TOTAL PETROCHEMICALS USA, INC.




By: Jeffrey O. Moreno
David E. Benz
Thompson Hine LLP
1920 N St. N.W., Suite 800
Washington, D.C. 20036
(202) 331-8800

September 9, 2010

Certificate of Service

I hereby certify that on this 9th day of September 2010, a copy of the foregoing Fourth Set of Discovery Requests was served by electronic delivery on:

G. Paul Moates
Paul A Hemmersbaugh
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005



Jeffrey O. Moreno